

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 YAVAPAI COUNTY, ARIZONA
 FOR THE COUNTY OF YAVAPAI

2011 DEC -6 AM 11:48

SANDRA K HARKHAM, CLERK

by Stephanie Kling

STATE OF ARIZONA,)

Plaintiff,)

vs.)

Case No. V1300CR201080049

JAMES ARTHUR RAY,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY TWENTY-ONE

MARCH 24, 2011

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI

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4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs) Case No. V1300CR201080049
7 JAMES ARTHUR RAY,)
8 Defendant.)
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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Thursday,
3 March 24, 2011, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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PROCEEDINGS

1 THE COURT: The record will show the presence
2 of the defendant, Mr. Ray; the attorneys, Mr. Li,
3 Mr. Kelly, Ms. Do. Ms. Polk is representing the
4 state.

5 And I just wanted to address the issue
6 that was raised at the end of the day concerning
7 the state's position that late disclosure is taking
8 place on these cross-examinations and the
9 defendant's position that no, there's not an
10 obligation to disclose under the long-standing,
11 basic rule of cross-examination. You need a
12 reasonable basis. This is what is appropriate. I
13 think those are the positions.

14 I looked at the law, and Arizona does
15 have cases that recognizes the good-faith basis
16 rule. But I think the best guide would be the
17 disclosure rules and looking at the comments.

18 If you look at 15.2(c) -- and there's
19 been an amendment but it hasn't really changed
20 what's at issue here. There is -- the comment to
21 the amendment doesn't address this particular
22 point.

23 But 15.2(c)(2) requires the defense to
24 disclose a list of all papers, documents,
25

1 photographs, and other tangible objects that the
2 defendant intends to use at trial. That's the
3 term. "Use."

4 If you look at the comment to 15.2(c), it
5 says, this section closely parallels the
6 prosecutor's disclosure obligations under rules
7 15.1(a)(1), (a)(3), and (a)(4), except that it is
8 limited to evidence which the defendant will offer
9 at trial. Why did the rules say use? Why does the
10 comment say offer?

11 So if I go back to the original time when
12 the issue arose here, it had to do when a defense
13 attorney was offering an undisclosed exhibit.
14 That's a violation. If you're not offering an
15 exhibit, the comment would seem to suggest not a
16 problem. The rule says when you use an exhibit.

17 And I think it gets to the distinction
18 that I was trying to point out yesterday. At some
19 point it crosses the line between a
20 cross-examination question with a good-faith
21 basis -- basis -- excuse me -- and having an
22 exhibit out and about suggesting improperly
23 evidence.

24 There also has to be a reason to ask the
25 question. There still has to be relevance. And

1 there also has to be compliance with the rules.
2 Just because it's cross-examination and there might
3 be a good-faith basis to question in an area does
4 not justify reading hearsay off a document. You
5 can't bring hearsay in in that fashion. That's not
6 permitted. And that's the rule.

7 Ms. Polk, do you have anything further on
8 that?

9 MS. POLK: Your Honor, I would just add that
10 an additional problem -- and this is an example
11 when Mr. Kelly was reading from what now has been
12 marked as Exhibit 786, which is the letter from
13 Dr. Simone, to whom it may concern, concerning
14 Melinda Martin. It was a document that had never
15 been disclosed to the witness. Mr. Kelly had it in
16 his hand, was looking at it, and he said to the
17 witness -- I believe that this is what we'd written
18 down at the time. If the transcript says
19 otherwise, I will stand corrected.

20 But I believe Mr. Kelly's questions to
21 the witness was, isn't it true that your doctor
22 told you not to talk to anyone?

23 THE COURT: Isn't that exactly what I just
24 said?

25 MS. POLK: Yes. But the problem is it isn't

1 even what the letter said. The state is in a
2 position of not even knowing what the document is.
3 Mr. Kelly has suggested it says something that it
4 doesn't say. And without disclosure, we are at a
5 complete loss to even know if the document says
6 what he says, let alone deal with it.

7 THE COURT: And what's happened here,
8 Mr. Kelly, is that -- is what the state is saying
9 is there's a failure of the prove up. Leave aside
10 the hearsay problem where -- hearsay should not be
11 read into evidence. That's -- that's not -- that's
12 not appropriate.

13 MR. KELLY: Judge --

14 THE COURT: But now Ms. Polk is saying you
15 haven't come through with the prove up to ask your
16 good-faith question. That's -- that's what she's
17 saying.

18 MR. KELLY: Sure. That's what she's saying.
19 But she's wrong because that's not the right
20 document for the prove up. I have the prove up.
21 And it's a text message sent between Ms. Martin and
22 Megan Fredrickson where she says, my doctor told me
23 that I shouldn't speak to anyone about this until I
24 receive counseling.

25 THE COURT: And if you have something like

1 that in a -- in something with legitimate
2 foundation -- and if you read the Osborn case, it
3 talks about not having to have a perfect transcript
4 or something. You can work those things out
5 through redirect.

6 But if you have that kind of document and
7 you're talking about a statement, Ms. Polk has to
8 have that at the time there's questioning as to a
9 statement. She has to have that at that time,
10 Mr. Kelly, if it's a prior statement.

11 MR. KELLY: Judge, I believe I understand your
12 analysis. And I would agree with it with a couple
13 exceptions. First of all, it's not limited to
14 statement -- specific statements in a recorded
15 interview or such.

16 THE COURT: I'm not going to go back into
17 that. And you can cross-examine if there's a
18 good-faith basis. But that's not the same as
19 getting up with a document and trying to read
20 hearsay off of that document. It's not the same as
21 not having appropriate prove up.

22 MR. KELLY: And secondly, Judge, in regards to
23 the prove up, under 613, the rules of evidence, the
24 statement need not be shown nor its contents
25 disclosed to the witness at that time --

1 THE COURT: Correct.

2 MR. KELLY: -- but on request shall be
3 disclosed to opposing counsel.

4 So until it's requested, I don't -- my
5 understanding of this rule is I don't need to
6 provide a copy before I ask a question.

7 THE COURT: I think -- I think Ms. Polk was
8 asking for the document rather quickly, though,
9 into the examination. And that's when it has to be
10 provided.

11 MR. KELLY: I agree with that. But I'm saying
12 I don't believe that my cross-examination is
13 hampered by having to prove a copy of a document.
14 Because, as an example, there was a question. And
15 I can't recall the specific documents. She said,
16 yes, and we moved on.

17 Pretty much, Did you say you drove to the
18 grocery store last Tuesday? Yes, I did. So
19 there's nothing to prove up from the document. If
20 she were to say, no, I didn't, then we have a prior
21 inconsistent statement and an issue under 613.

22 So just so I understand you, Judge, I
23 have -- I would expect -- I really don't know, but
24 I would expect that this issue may arise this
25 morning in the continuation of Ms. Martin's

1 cross-examination. And consistent with 613, I have
2 copies if they're requested. But I don't need to
3 provide them right now. I don't even know if
4 they're going to come up.

5 THE COURT: I've said Rule 613 so many times.
6 And that -- that deals with statements. That's a
7 whole different thing than a hearsay letter from a
8 doctor or some letter from a person who works for a
9 workers' comp division.

10 MR. KELLY: And, for the record, Judge -- and,
11 again, Ms. Do may be better able to address the
12 disclosure aspect of this. But it's my
13 understanding -- if I misstate this, forgive me.
14 She can clarify. But it's my understanding that a
15 search warrant was issued on JRI International
16 office in Carlsbad, California; and everything was
17 seized or copied.

18 Now, the government, then, I think, went
19 through those documents and decided what they were
20 going to use for trial. But I believe things such
21 as Dr. Simone's letter -- I believe somewhere the
22 state probably has a copy of that. Whether they
23 Bates stamped it and decided that they were going
24 to disclose it to us during trial, we'd have to ask
25 Ms. Polk.

1 But I believe there's -- they have copies
2 of all the computers. And that's simply where I
3 got it.

4 And, again, I probably am not as familiar
5 with that aspect of disclosure. I believe Ms. Do
6 is.

7 MS. POLK: And, Your Honor, I'd like to
8 respond to that.

9 THE COURT: Yes. You may.

10 MS. POLK: That's actually completely false.
11 The state did do a search warrant. The event
12 occurred on October 8. The search warrant was done
13 at the beginning of the next week, I believe,
14 around October 12th, 13th, or even possibly the
15 14th.

16 The documents that Mr. Kelly was using in
17 court yesterday, the letter from Dr. Simone dated
18 October 19th. So that's after the search warrant.
19 The workers' comp claim form is dated -- it says,
20 date claim form was provided to employee
21 October 26th, 2009. And date employer received the
22 claim form, November 3rd, 2009. So those are both
23 after the search warrant. And then the letter from
24 Hartford concerning the workers' comp benefits is
25 dated November 9th, 2009.

1 So none of these documents were --
2 they're all postdate -- they're all dated after the
3 state did the search warrant.

4 MR. KELLY: And, Judge, to clarify. I believe
5 we -- we're talking about things such as a -- the
6 Event Coordinator Position Contract, which I used
7 on cross-examination, the duties of Ms. Martin and
8 her job. They were on the server -- the servers --
9 I'm not much of a computer guy. And I believe the
10 state probably copied all of the information off of
11 those computers. And that was my reference.

12 Whether they identified the document,
13 Bates stamped it, disclosed it to us it, was their
14 decision.

15 MS. POLK: And, Your Honor, I'd like to
16 respond to that as well, because the document that
17 Mr. Kelly gave me a copy of after I requested it is
18 an undated, unsigned contract. He questioned
19 Ms. Martin about it without showing it to her.
20 There's no indication when this document was even
21 created.

22 But it's not signed by the witness. It's
23 not dated by the witness, nor is it signed by -- or
24 dated by anybody. So it's just simply not clear
25 when this document was created.

1 MR. KELLY: And again, Judge, it was simply
2 printed off the server. And I believe they have a
3 copy of the information on that server.

4 And, Judge, I never showed it to the
5 witness. I simply said, were these your duties.
6 And, again, with a good-faith basis because she was
7 the event coordinator. That's the contract for
8 that position. It is unsigned. We don't have a
9 signed copy. It's not admitted into evidence. It
10 was never offered.

11 THE COURT: I'm saying there's a point when it
12 crosses the line from crossing that --
13 cross-examination point to a point where you're,
14 essentially, testifying off an exhibit or giving a
15 content to an exhibit that's not admitted into
16 evidence. And that's got to be avoided.

17 The other thing I need to bring up or
18 want to bring up before I talk about Mr. Pace is
19 the ruling the Court has made about relevance of
20 evidence that may go only to a lesser-included
21 offense. And I would think by now the defense does
22 have the bench memorandum that Ms. Polk provided
23 yesterday.

24 MS. DO: We did receive it, Your Honor. But
25 we have not had a chance to prepare a response.

1 THE COURT: I want to make this clear. I made
2 the ruling, a 404(b) ruling. Initially it was
3 presented to me as a question of -- the phrase is
4 used "prior bad acts." We know it's really other
5 acts that -- however you want to phrase it. An
6 other-act motion was made. And it had to do with
7 the crime of manslaughter.

8 And I said that 404(b) evidence that
9 relates to the lesser included, that cannot come in
10 on a manslaughter charge. I said 404(b) evidence.
11 And if you think of it logically, it would be a
12 situation where there is a -- take in the abstract
13 a homicide case that includes all of the -- all of
14 the divisions of homicide, from premeditated down
15 to negligent homicide.

16 It would be as if somebody had -- say it
17 involved shooting. It would be as if somebody
18 had -- the state had other acts of someone being
19 careless with firearms, and they want to bring that
20 into the first-degree murder charge and say, well,
21 wait. We'll -- at the end we think we'll get a
22 lesser included, and all this will tie up at that
23 time.

24 If you think of that 404(b) evidence, I
25 just can't see coming in in that situation. That

1 exaggerates the situation presented in this case.
2 But it points up the issue.

3 I have not made any ruling, really,
4 beyond that 404(b) ruling that said no. If you're
5 offering this under 404(b), I made a ruling on
6 the -- on the motion prior to trial. There was a
7 motion to reconsider, and I -- I denied it. It was
8 all in the context of 404(b).

9 If there is relevant evidence on some
10 other grounds, that's going to be determined as the
11 evidence is presented. So I just want to clarify
12 that.

13 Ms. Polk, anything on that?

14 MS. POLK: Your Honor, I appreciate that
15 clarification. When I was questioning Melinda
16 Martin yesterday, Melinda Martin is -- testified
17 that she was the one who put together the medical
18 kit, the first aid kit, that she had been sent to
19 safety training.

20 And, in fact, the contract that Mr. Kelly
21 produced specifically says that one of her duties
22 is to serve in a first-aid support role at events
23 as needed.

24 When I -- so in that capacity this woman,
25 who is serving as a first-aid support role at the

1 sweat lodge ceremony, it is appropriate, then, to
2 determine, well, what is the information given to
3 you about what might transpire during that
4 ceremony, and specifically the heat-related
5 illnesses and injuries that can occur.

6 When I attempted to ask the witness that,
7 then there was an objection, and I believe the
8 Court sustained the objection.

9 THE COURT: I don't think I did. I think that
10 came in -- the one I remember sustaining was one
11 where it was whether or not she was involved in
12 safety reviews or something of that nature.
13 Counsel, we don't have the transcript right here.
14 But that's the objection I thought I sustained.

15 MR. KELLY: An additional difficulty with this
16 witness is, Judge, she only has a six-month history
17 with JRI.

18 THE COURT: I was going to get that too.

19 But, Ms. Polk, that was my recollection.
20 I think that other evidence did come in because it
21 related to what people knew at the 2009 event.

22 And what Mr. Kelly brought up has -- what
23 has been, in my mind, is in terms of reviewing
24 safety procedures, she hasn't even been there when
25 there was a prior Spiritual Warrior and sweat

1 lodge. And that's what I've been thinking about.

2 But that is getting into the area that
3 does relate to Mr. Pace. I think that was the
4 only -- only objection I sustained in that. I
5 think the other matters were admitted into evidence
6 because it related to the whole context of what
7 people knew, how the situation was handled, just
8 filling that all out.

9 MS. POLK: I'm fine with that clarification.
10 I think I must have misunderstood, maybe confused,
11 as the -- what was sustained and what was
12 overruled.

13 But with that clarification that it was
14 appropriate for this witness to discuss whether or
15 not she was given adequate knowledge about what can
16 go wrong, which is what I believe the Court is
17 saying, I'm fine with that clarification.

18 THE COURT: Well, in terms of characterizing
19 was it adequate, we're getting into the
20 questions -- the concern with questions and leading
21 into adequate training.

22 Could -- I have determined that what she
23 knew about these things is appropriate.
24 Characterizing it as adequate, I have trouble with
25 that if that came into the -- in as part of the

1 question.

2 Mr. Kelly?

3 MR. KELLY: Judge, my question or concern or
4 confusion is that this witness has clearly stated
5 on repeated times that she had minimal contact with
6 James Ray. He's the defendant in the case, and yet
7 her communications are with JRI employees.

8 So -- and I'm making an assumption here.
9 We can ask her if she was directed by her boss,
10 Megan, to prepare a first-aid kit and the reasons
11 why they did that. What was adequate or inadequate
12 in that regard relates to this corporate liability.

13 So if the government wants to amend the
14 indictment to conform to the evidence and
15 substitute James Ray -- or JRI for James Ray,
16 obviously we'd be willing to do that. But I don't
17 think that's what Ms. Polk is saying.

18 What she's trying to do is imply that
19 somehow James Ray, as the individual, knew what
20 Megan Fredrickson knew, which was told to Melinda
21 Martin.

22 THE COURT: And I'm assuming there's going to
23 be evidence -- I think there's going to be other
24 evidence presented in the case, Ms. Polk.

25 MS. POLK: Your Honor, I believe that it

1 will --

2 THE COURT: You intend to do that?

3 MS. POLK: Yes. That causation link will be
4 made when the prior -- when the information about
5 the prior sweat lodges does come in on the issue of
6 causation, the link will be made that it is Mr. Ray
7 who's running each one of those events. He
8 personally is observing that people are getting ill
9 and the fact that nothing changes. And, in fact,
10 the opposite is true, that the heat is increased
11 rather than decreased. The event is extended
12 rather than abbreviated.

13 THE COURT: Mr. Kelly?

14 MR. KELLY: That was our hearing in November.
15 That's the 404(b) evidence which has been
16 precluded.

17 Secondly --

18 THE COURT: I think we're really mixing some
19 issues here. The question of whether or not a
20 corporate employee at whatever level is doing
21 things -- you know -- also on his own account or
22 her own account as well as the corporation --
23 that's a factual question, Mr. Kelly.

24 MR. KELLY: No. I'm --

25 THE COURT: That's a factual question.

1 MR. KELLY: -- talking about Ms. Polk's
2 representation. When you ask her how are you going
3 to connect up knowledge between Melinda Martin and
4 James Ray as the individual, she said, well, we're
5 going to do it through all the prior-act evidence.

6 Now -- you know -- if I've misunderstood
7 her -- but I thought that was the specific order of
8 this court precluding that type of evidence. I
9 mean, we have it right here on our --

10 THE COURT: Is evidence going to how authority
11 works in a corporation, who does certain things --
12 is that -- that's prior-act evidence?

13 MR. KELLY: No. Judge, her statement is --
14 the link will be made that it's Mr. Ray that is
15 running each one of these events. He personally is
16 observing the people that are getting out, and the
17 fact that he sets there is true. The heat is
18 increased rather than decreased. The event is
19 extended rather than abbreviated. She's talking
20 about the prior act evidence that you've precluded.

21 So the question that you posed to
22 Ms. Polk, as I understand it, is how do you link
23 this witness's -- or how do you link my client's
24 knowledge with this witness? I thought the
25 response was going to be well, we're going to call

1 Megan Fredrickson. That's what I thought the
2 response was.

3 I didn't realize the response was going
4 to be, well, we're going -- we're going to imply
5 knowledge by bringing in all the prior sweat lodge
6 activities. And if that's the case, Judge, I would
7 emphasize that it violates your pretrial ruling.

8 THE COURT: I think that's a -- Ms. Polk, I
9 think that would just be a relevance problem.

10 MR. KELLY: And, Judge, please understand,
11 from our perspective or -- I don't want to use the
12 word "confusion." But this witness has been on the
13 witness stand for what's going to be a day and a
14 half. And they told us that they're not going to
15 call these upper-level employees like Megan.

16 So that's why this was our opportunity to
17 try to get some information about JRI's corporate
18 structure. Because she's the witness who's
19 representing the corporation in this trial is my
20 understanding.

21 Now, Megan has been disclosed as a
22 witness. But in our informal discussions we
23 understand she's not --

24 Oh.

25 She's not on the trial list, Mr. Li tells

1 me.

2 Finally, Judge, again -- you know -- I
3 don't want to ignore this whole idea of omission
4 and duty that Mr. Li has been discussing for the
5 last couple weeks in this case.

6 We're in a difficult spot in attempting
7 to fashion a competent defense when everything is
8 thrown up against this jury, and as I've argued
9 repeatedly, in a highly prejudicial manner, whether
10 it's refusing to strike jurors who said, well, if I
11 don't have to look at him, I suppose I can be fair,
12 all the way through opening statements through
13 repeated leading questions on redirect, I mean,
14 et cetera, et cetera, to attempting to open the
15 door on 404(b) prior-act evidence in clear
16 violation of the Court's rulings.

17 There have been circumstances, Judge,
18 where a sidebar -- you enter an order, and Ms. Polk
19 comes to this podium and violates it in the next
20 question. And the sum total of that begs the
21 question of how does he receive a fair trial? He's
22 the individual with the constitutional rights, not
23 the State of Arizona.

24 And I'm just kind of taken aback at that
25 response. Because we had prepared a defense that

1 does not include prior-act evidence consistent with
2 your pretrial order. And now I'm hearing something
3 different.

4 THE COURT: I wanted to clarify. My pretrial
5 order does not rule out relevant evidence. It
6 rules out 404(b) evidence in that context.

7 MR. KELLY: And, Judge, we think -- we believe
8 that we understand your pretrial order. We believe
9 that we understand your orders ruled daily from the
10 bench. And we believe that we're doing our best to
11 comply with those orders.

12 My concern is I don't see an equal effort
13 advanced on the part of the State of Arizona when
14 it keeps asking improper questions, which are
15 sustained repeatedly, which causes me or cocounsel
16 to object in front of the jury unnecessarily, which
17 creates an image to this jury that somehow we're
18 trying to hide evidence from -- from the jury when,
19 in fact, they're pretrial orders. And it's a
20 problem, Judge.

21 So, again, you asked a very specific
22 question. How are you going to prove up specific
23 knowledge in this corporate entity between James
24 Ray and Melinda Martin? And the response was
25 prior-act evidence and not by bringing in somebody

1 who didn't.

2 THE COURT: Ms. Polk.

3 MS. POLK: Your Honor, I'd like to respond
4 just briefly to a couple things, because this is
5 not the first time that the defense has stood up
6 here and claimed that the state is seeking to admit
7 improper evidence or asking improper questions.
8 That simply is not true.

9 There have been objections based on
10 foundation to questions. And when I go back, lay
11 the appropriate foundation, the information that
12 I'm seeking to admit does come in. And it is
13 simply a misrepresentation to suggest to this court
14 that the questions themselves are improper.

15 Foundational objections doesn't mean that
16 the information that the state is seeking to come
17 in is inadmissible or it is improper to seek that
18 information. And we have done so and have
19 succeeded in getting in information relevant to the
20 state of mind and the conduct of participants and
21 victims in the sweat lodge.

22 The Court has clearly ruled that that
23 information comes in. And that is the purpose and
24 intent of the questions that I am asking these
25 witnesses. But Mr. Kelly has repeatedly stood up

1 here and said the state is asking improper
2 questions. And that simply is untrue.

3 The Court has made it clear on many
4 occasions that you have issued a pretrial ruling
5 based on 404(b) evidence and specifically to the
6 question of manslaughter.

7 On several occasions the Court has made
8 it clear that relevant evidence still comes in and
9 that what happened at prior sweat lodges, as it is
10 relevant to causation, comes in. And the Court has
11 clarified that until we have made that link that
12 that information is not going to come in.

13 It was allowed through Jennifer Haley.
14 And she testified about what happened at a prior
15 sweat lodge event. That went to the issue of
16 causation that it's the heat that causes the death
17 of the victims, and the Court allowed it in.

18 Afterwards, outside of the presence of
19 the jury, the Court stated that you wanted the
20 medical causation link before we could continue
21 further. We have made that causation link. We
22 have provided the medical evidence through the
23 testimony of Dr. Jeanne Armstrong, who clearly laid
24 out for the Court that continuum of heat and
25 described all the symptoms that witnesses who were

1 at prior events will describe.

2 And each one of those Dr. Armstrong said
3 is a sign or symptom on that continuum of
4 heat-related illnesses, starting with the heat rash
5 and ending ultimately in heat stroke or death.

6 So that causation has been laid out for
7 the Court. And the Court has clearly said that
8 what happened at prior sweat lodge events will come
9 in if it goes to the issue of causation. And
10 that's the issue that the state has sought and will
11 continue to seek information concerning what
12 happened at the prior sweat lodge events.

13 THE COURT: I think I also mentioned with
14 regard to Jennifer Haley there was another basis of
15 admission. And it actually had to do with her own
16 approach and conduct at the 2009 sweat lodge. She
17 had direct testimony about that.

18 So I just said relevant evidence. It
19 comes in. I'm not going to say how it might be
20 relevant or not. I did indicate that I could see
21 causation if there's -- if there is the expert
22 testimony that puts that -- you know -- frames
23 that --

24 MR. KELLY: Dr. Armstrong was not disclosed as
25 the expert. We understood your ruling, conditional

1 relevance. And we assume that the actual doctors
2 who were treating the victims in the ERs would be
3 brought in an attempt to establish that causation
4 link.

5 Simply because the medical records are
6 in -- I mean, is it the government's position that
7 they're going to use Melinda Martin to describe how
8 a victim or participant appeared in a hospital
9 versus the actual doctor who treated that person?
10 And then they want the jury to interpret without a
11 medical basis records that we've stipulated into
12 evidence simply for benefit of our own case.

13 I assumed that when you said that this
14 conditional relevance in regards to the alleged
15 causation was dependent upon the expert witness
16 testimony, that under Rule 15 would be the experts
17 disclosed by the state and not Dr. Armstrong or
18 Melinda Martin.

19 THE COURT: That's beyond what we need to
20 address today.

21 MR. KELLY: Judge, back to Melinda Martin.
22 She's the witness before us today. And I'm
23 still -- we're just in a tough position because the
24 state is attempting to use her apparently as the
25 person who's going to talk about the corporate

1 entity JRI. And yet she's in the bottom of the
2 totem pole with minimal experience in that regard.

3 So I'm entitled to ask her questions on
4 cross-examination in an attempt to clarify to this
5 jury those facts and to point out, importantly,
6 that for all the stuff we've heard for three weeks,
7 just like Ms. Martin said, they're not direct
8 communications from Mr. Ray with the exception of
9 what happened in the sweat lodge.

10 But I'm talking about prior to that. The
11 Samurai Game, et cetera. I believe that we're
12 entitled to explore that without opening the door
13 to Steven Pace.

14 MR. LI: Your Honor, I just have a very quick
15 comment, if I could make one, Your Honor.

16 THE COURT: Okay.

17 MR. LI: Thank you. With respect to the
18 Court's ruling, I think the state is now taking the
19 position that it has established the conditional
20 relevance of prior sweat lodge experiences. I
21 don't think that's the case. I don't think that's
22 the Court's ruling that they just have a blanket --
23 they've established some sort of causation link to
24 the prior sweat lodge incidents. And I don't think
25 the Court has ruled that they now get to ask about

30

1 any other sweat lodge, particularly with this
2 witness, since the only information that she would
3 have would be hearsay. That's No. 1.

4 But No. 2, I -- as I understood the
5 Court's ruling regarding expert testimony relating
6 to the prior incidents, it's not just the 2009
7 incident. It's that somebody who's looking -- who
8 was at 2006 or 2007, 2008, 2005, who laid eyes on
9 the people there could give some sort of
10 explanation as to what actually happened that would
11 somehow link this all up from a causation
12 standpoint.

13 I think there are a lot of issues with
14 the state's argument. I think they're probably
15 better dealt with in writing, because what's
16 happening here, Your Honor, with all due respect,
17 is we're having a lot of information being sort
18 of --

19 THE COURT: Mr. Li, I indicated this is more
20 than we need to discuss today.

21 Ms. Polk, you can have a remark.

22 MS. POLK: Your Honor, I don't need to respond
23 to that. But I do want to express concern over
24 what's on the easel. I'd objected yesterday when
25 Mr. Kelly started to create it with this witness

1 saying that she didn't know. And he continued to
2 create it in front of the jury. When I came in
3 here this morning, Mr. Kelly was working at it, and
4 he added several more boxes to it.

5 My concern is that if the jury is to see
6 an exhibit, a proper foundation is supposed to be
7 laid, and then you move and you admit it. And I'm
8 struggling to see the difference between drawing on
9 the easel a complete exhibit, showing it to the
10 jury, and talking about it when there has been no
11 foundation for it. I fail to see the difference.

12 And I think it would be inappropriate for
13 Mr. Kelly to now continue to show this exhibit to
14 the jury when there's absolutely no foundation for
15 it.

16 THE COURT: Mr. Kelly.

17 MR. KELLY: What she doesn't know is as
18 relevant as what she does know in regards to the
19 entity that she went to work at every day. And
20 contrary to what Ms. Polk has said, she has
21 identified the people that I've written the names.
22 The rest of the corporate structure she said she
23 didn't know. That's fine.

24 And it would be like me being on the
25 witness stand and asking questions about Munger

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1 Tolles. I could talk about what I know, and then
2 somebody could ask me about something. I say,
3 well -- you know -- I don't know that.

4 And what's important, though, is the --
5 the real relevance of this exhibit to my
6 cross-examination is that the link between the
7 personal knowledge of the individual charged with
8 manslaughter and these incredible assumptions made
9 by witnesses relating to mind control, large-group
10 awareness training, et cetera, all impliedly
11 created by my client when they don't have any
12 personal contact with him.

13 And that's all this corporate structure
14 was trying to show is how far down Melinda Martin
15 was. It's not being admitted into evidence, but it
16 gives a visual picture to the jury that this is a
17 27-employee outfit and she's down at the bottom.

18 THE COURT: The case started out in a very
19 unusual posture of the state presenting a great
20 deal of unadmitted evidence without objection.
21 That's unusual. But there was no objection to
22 that. Right at the -- at opening statement, there
23 was evidence -- there were recordings played that
24 was not admitted into evidence. But it was played.
25 So it started out in that very unusual fashion.

1 And now this witness, I think, Mr. Kelly,
2 has, basically, indicated she doesn't really know
3 the exact title. She didn't see the corporate
4 papers. I think she said something like that. She
5 doesn't know. So there becomes a question now of
6 creating an exhibit in front of the jury with a
7 witness who disclaims knowledge. That seems to be
8 the --

9 MR. KELLY: She disclaimed -- I'm sorry,
10 Judge, for interrupting. She disclaimed knowledge
11 of her own medical condition that we had a doctor's
12 letter of. And the reason that's important is
13 because it relates to her credibility as a witness.

14 If she doesn't know that James Ray is the
15 president of James Ray International, the jury
16 ought to know that she's not aware of that fact.

17 THE COURT: And Ms. Polk, though, is
18 specifically saying you're creating exhibit --
19 exhibiting -- showing it to the jury with virtually
20 no foundation. And I gave the instruction right
21 away that what you're saying and what you're
22 writing is not evidence. And that's -- that's,
23 basically, the law.

24 In essence, you're saying -- could be
25 saying that verbally, so what's the difference in

1 putting it on the scratch pad.

2 MR. KELLY: Exactly, Judge. It's
3 demonstrative evidence. I've never intended to
4 admit it. The government asked that it be
5 preserved. I don't have an objection to that.

6 THE COURT: Ms. Polk, I've got to say I have a
7 concern with this too when a witness disclaimed
8 having any knowledge, and we're back to that
9 good-faith basis. But she worked for the company
10 for a certain number of months. Does she know how
11 these people fit in? There can be questions along
12 that line. But it's not something I've dealt with.

13 Ms. Polk.

14 MS. POLK: Well, my problem is if Mr. Kelly
15 had marked that as an exhibit, had given it to the
16 witness and said, can you tell me what this is? Do
17 you recognize it to be true, and she said no, it
18 would not come in.

19 And so he's circumventing the rules of
20 evidence, has drawn this exhibit that this witness
21 has said she doesn't know. The foundation for it
22 is not there.

23 If they want to bring in the corporate
24 structure, then they need to lay the foundation
25 through an appropriate witness who can say, yes, in

1 fact, this is the corporate structure.

2 I don't know if this is the corporate
3 structure. This witness doesn't know. There's
4 been no evidence that there's 27 employees at the
5 company. And yet that's what Mr. Kelly has created
6 and using it just as an exhibit but not going
7 through the appropriate rules.

8 MR. KELLY: Judge, what the state wants to do
9 is just simply not have any cross-examination in
10 this case.

11 THE COURT: Now, that's -- that's an
12 exaggeration, Mr. Kelly.

13 MR. KELLY: Well, the witness admitted there
14 were 27 employees. Now she complains of it. So if
15 we try to bring out prior inconsistent statements,
16 objection. We try to show a chart to show he
17 corporate structure, objection. We show a
18 photograph that shows that a witness was lying,
19 objection. And it goes on and on and on.

20 THE COURT: You can't -- if you have a
21 photograph you're going to offer on a point, if you
22 know that, you intend to do that, the rules are
23 clear. You have to provide the photograph because
24 there may be a story behind that photograph that
25 only comes out through litigation.

1 That's the balance between avoiding trial
2 by surprise and legitimate -- legitimate reasons
3 when you can bring up something with somewhat of
4 surprise, which is contemplated in Rule 613.

5 MR. KELLY: Judge, and we're not talking about
6 surprise. We're talking about the truth. The
7 workers' comp claim. This is the State of
8 Arizona's witnesses. That shows potential motive
9 for bias. That's Brady information that should
10 have been disclosed to the defense.

11 This is incredible. And I agree. I
12 mean, it's just like throwing all this stuff at the
13 jury and then we're supposed to sit here and try to
14 sort it out and try to represent our client. And
15 every time we make an attempt to do it, whether
16 it's something as innocuous as that chart or
17 something as important as the workers' comp claim,
18 there's an objection.

19 THE COURT: Ms. Polk, anything else?

20 MS. POLK: Your Honor, just simply that the
21 fallback position is that material somehow is
22 Brady. Again, Brady requires the state to disclose
23 what is in our possession and control. We've never
24 had these documents. They were created after the
25 search warrant, and they come from the defendant.

1 It was -- the workers' comp claim was
2 prepared by the defendant's employee -- employer
3 according to law, which requires you to prepare a
4 workers' comp claim.

5 To suggest that somehow is Brady, that we
6 don't even know about it, is a fallback position
7 that -- it's ignoring what the real issue is here.
8 And that's all I'm going to say.

9 MR. KELLY: Judge, I will -- just in the
10 interest of getting back to trial, I'll flip the
11 chart. We'll address this issue.

12 THE COURT: All right. I will certainly allow
13 legitimate cross-examination. But if it really
14 gets to a point where someone can't provide the
15 information, to go through and just display
16 something the person isn't able to identify, it's
17 just not appropriate. If the person can identify
18 some and not the other, well, there are go.

19 Okay. Thank you. We'll start as soon as
20 we can.

21 (Proceedings continued in the presence of
22 jury.)

23 THE COURT: The record will show the presence
24 of the defendant, Mr. Ray; the attorneys, the jury.
25 And the witness has returned to the witness stand

1 and is under oath.

2 Mr. Kelly, you may continue.

3 MR. KELLY: Thank you, Judge.

4 May I approach the witness?

5 THE COURT: Yes.

6 CROSS-EXAMINATION (Continued)

7 BY MR. KELLY:

8 Q. Ms. Martin, you worked for JRI, James Ray
9 International, since April of about -- about April
10 of 2009; correct?

11 A. Correct.

12 Q. And they were located in California?

13 A. Correct.

14 Q. And there is an office building; correct?

15 A. Correct.

16 Q. Let me hand you what's been marked as
17 Exhibit 566. All these photographs are rather
18 blue. We'll do our best.

19 Do you recognize that building?

20 A. Yes.

21 Q. Is that the building for JRI
22 International?

23 A. Yes.

24 MR. KELLY: Your Honor, I'd move to admit --
25 I'd move to admit 566.

1 MS. POLK: The state has no objection.

2 THE COURT: 566 is admitted.

3 (Exhibit 566 admitted.)

4 Q. BY MR. KELLY: And let me hand you,
5 ma'am, 568. Ask you whether you recognize that as
6 the reception area of James Ray International?

7 A. Yes.

8 MR. KELLY: Your Honor, I'd move to admit 568.

9 MS. POLK: The state has no objection.

10 THE COURT: 568 is admitted.

11 (Exhibit 568 admitted.)

12 Q. BY MR. KELLY: And 569. Do you recognize
13 that as a work area of James Ray International?

14 A. Yes.

15 MR. KELLY: Your Honor, I'd move to admit 569.

16 MS. POLK: The state has no objection.

17 THE COURT: 569 is admitted.

18 (Exhibit 569 admitted.)

19 Q. BY MR. KELLY: And 570. Do you recognize
20 this as the office of James Ray --

21 A. Yes.

22 Q. -- at James Ray International?

23 A. Yes.

24 MR. KELLY: I'd ask -- I'd move to admit 570.

25 MS. POLK: The state has no objection.

1 THE COURT: 570 is admitted.

2 (Exhibit 570 admitted.)

3 Q. BY MR. KELLY: 571, Ms. Martin. Do you
4 recognize what's in 571?

5 A. Yes.

6 Q. And is that part of Mr. Ray's office?

7 A. Yes.

8 MR. KELLY: Your Honor, I'd move to admit 571.

9 MS. POLK: The state has no objection.

10 THE COURT: 571 is admitted.

11 (Exhibit 571 admitted.)

12 Q. BY MR. KELLY: I'm going to hand you 573,
13 572, and 574, and ask you whether you recognize the
14 wall hanging depicted in those three photographs?

15 A. Yes.

16 MR. KELLY: Your Honor, I'd move to admit
17 those three exhibits.

18 MS. POLK: The state has no objection to
19 Exhibit 572, 573, and 574, Your Honor.

20 THE COURT: 572, seventy-three, and
21 seventy-four are admitted.

22 (Exhibits 527, 573, and 574 admitted.)

23 Q. BY MR. KELLY: And finally, Ms. Martin,
24 567 is -- do you recognize what's in that exhibit?

25 A. Yes.

1 Q. And is that the -- the Mr. Ray's name
2 next to his office door?
3 A. Yes.
4 MR. KELLY: And could I publish to the jury?
5 THE COURT: And you're moving that also?
6 MR. KELLY: Oh. Yes. Please. Yeah.
7 MS. POLK: And the state has no objection.
8 THE COURT: And that was 567 I think.
9 567 is admitted.
10 (Exhibit 567 admitted.)
11 MR. KELLY: Thank you, Judge.
12 Q. Ms. Martin --
13 May I publish, Judge?
14 THE COURT: Yes.
15 Q. BY MR. KELLY: Beginning with 566, this
16 is the outside of James Ray International; correct?
17 A. Correct.
18 Q. And you worked there; right?
19 A. Yes.
20 Q. The entryway is 568. This was the
21 reception area; correct?
22 A. Yes.
23 Q. And I believe you told us yesterday that
24 about 27 people worked there?
25 A. That sounds reasonable.

1 Q. You didn't count them; correct?
2 A. Yes.
3 Q. Was there a receptionist there most of
4 the time?
5 A. Yes.
6 Q. What was her name?
7 A. Amy.
8 Q. And let's put up 569. Is this the -- one
9 of the large work areas in James Ray International?
10 A. Yes.
11 Q. Can you tell us where your office or work
12 area was.
13 A. It should be in the middle there,
14 perhaps, next to Rebecca. And then Tina and then
15 mine would be to the left.
16 Q. Now, who is Rebecca?
17 A. Well, it says her name right there.
18 She's --
19 Q. That was a poor question. Not who is
20 she, but did you know Rebecca?
21 A. Yes.
22 Q. What did Rebecca do for JRI?
23 A. She kind of organized the employees in
24 some way. Not me as much but other people.
25 Q. Is that Rebecca, if you know?

1 A. I can't tell.
2 Q. And what about the lady with the blonde
3 hair to her right? Do you know who that is?
4 A. No. I can't tell.
5 Q. Your work area, however, you do recognize
6 as being somewhat to the left?
7 A. Yeah. It's not pictured right there.
8 Q. Now, I ask you to identify exhibits 570
9 and -- and let me show it. Do you recognize that
10 as Mr. Ray's office?
11 A. Yes.
12 Q. And 571, a different view of his office?
13 A. Correct.
14 Q. And on his office wall, just as an
15 example, 574 was a -- I can't think of the word.
16 Some type of display with a bunch of business
17 cards; correct?
18 A. Correct.
19 Q. 574 happens to show Henry Ford's and
20 Mr. Vanderbilt's; correct?
21 A. Yes.
22 Q. And if I could take a look at 573, which
23 is just a photograph up from 574; correct?
24 A. Uh-huh.
25 Q. And maybe you can't see this from where

1 you're at, ma'am. But they are business cards from
2 entities such as Howard Hughes and Mr. Hearst;
3 correct?
4 A. Correct.
5 Q. Other businessmen; correct?
6 A. Right.
7 Q. And when you took a job here with JRI,
8 you had come from a real estate background;
9 correct?
10 A. Correct.
11 Q. Prior to that I believe you worked for a
12 large or relatively large law firm in San Diego.
13 Correct?
14 A. Yes.
15 Q. And they were equally private businesses;
16 correct? They weren't government entities?
17 A. Right. Correct.
18 Q. They were private businesses with a
19 particular function; correct?
20 A. Yes.
21 Q. And similar to --
22 I'm going to strike that question?
23 And JRI was a private business; correct?
24 A. Yes.
25 Q. And that exhibit that was up there

1 reflects other private businesses. In fact, some
 2 very successful people; correct?
 3 **A. Correct.**
 4 **Q.** One of these -- well, let me ask you
 5 this: Yesterday I asked you questions about the
 6 corporate structure. And perhaps it was too
 7 leading. In other words, it was -- it was my
 8 opinion and not yours. Let's go with yours today.
 9 You knew that you worked for James Ray
 10 International; right?
 11 **A. Correct.**
 12 **Q.** And your boss. What was her name?
 13 **A. Megan Fredrickson.**
 14 **Q.** Did you and Megan get along pretty well?
 15 **A. Yeah.**
 16 **Q.** Do you know who Megan's boss was?
 17 **A. James.**
 18 **Q.** Do you know Megan's title, as you sit
 19 here today?
 20 **A. Director of Operations.**
 21 **Q.** And your title?
 22 **A. Events Coordinator.**
 23 **Q.** Now, did you also know a person named
 24 Taylor Butler?
 25 **A. Yes.**

1 **Q.** And do you know her position?
 2 **A. I believe she's considered the personal**
 3 **assistant to James Ray.**
 4 **Q.** So she would be -- I'm assuming as a
 5 personal assistant, did you understand that she had
 6 frequent contact with James?
 7 **A. Yes.**
 8 **Q.** Personal contact?
 9 **A. Yes.**
 10 **Q.** And you said personal assistant is your
 11 understanding?
 12 **A. I believe that was her title.**
 13 **Q.** Did you know a person by the name of Amy?
 14 And I can't pronounce her last name. Grothe?
 15 **A. Yes.**
 16 **Q.** And what -- what did you understand her
 17 job to be?
 18 **A. I understood that she was his executive**
 19 **assistant.**
 20 **Q.** Again, had personal contact with James,
 21 to your knowledge?
 22 **A. To my knowledge, yes.**
 23 **Q.** Then did you know a person by the name of
 24 Greg Hartle?
 25 **A. Yes.**

1 **Q.** And Greg was at the 2009 Spiritual
 2 Warrior?
 3 **A. Yes.**
 4 **Q.** And do you know what he did?
 5 **A. His job title had just changed recently**
 6 **so I -- I'm not quite sure what it landed at.**
 7 **Q.** Do you know whether he had personal
 8 contact with James Ray?
 9 You know, I should define that. You told
 10 us that you had some contact with James Ray --
 11 **A. Uh-huh.**
 12 **Q.** -- on occasion; correct?
 13 **A. Uh-huh.**
 14 **Q.** So did you report directly to Mr. Ray?
 15 **A. Mostly not.**
 16 **Q.** You reported to Megan?
 17 **A. Correct.**
 18 **Q.** So I'm going to rephrase my question. Do
 19 you know whether Greg Hartle reported directly to
 20 James Ray?
 21 **A. I do not know.**
 22 **Q.** So let's just -- we'll just draw a circle
 23 on here and put Greg's name in it.
 24 Did you know a person by the name of
 25 Becky?

1 **A. Yes. Rebecca. Becky. Yes.**
 2 **Q.** And what did Rebecca -- do you know her
 3 title?
 4 **A. Again, I don't know the titles because**
 5 **they changed now and then.**
 6 **Q.** Do you know who she reported directly to?
 7 **A. I believe she reported to Megan.**
 8 **Q.** Okay. But you're not sure of her title?
 9 **A. Right. Correct.**
 10 **Q.** Did you know someone named Sheryl Stern?
 11 **A. Yes.**
 12 **Q.** And -- and when I say "know someone," all
 13 these people -- all these questions are
 14 specifically directed towards the time period that
 15 you worked for JRI.
 16 **A. Correct. Okay.**
 17 **Q.** Okay. Do you know Sheryl's title?
 18 **A. No.**
 19 **Q.** Do you know who she reported to?
 20 **A. I think she would have reported to Megan.**
 21 **Q.** But not completely sure?
 22 **A. Correct.**
 23 **Q.** Did you know a person by the name of
 24 Joanna?
 25 **A. Yes.**

1 Q. And do you know her title?
 2 A. **She was marketing.**
 3 Q. And do you know who she reported to?
 4 A. **Megan probably.**
 5 Q. And these question marks, Ms. Martin,
 6 just indicate that we don't know what their title
 7 is today.
 8 What about Michelle Goulet? Did you --
 9 did she work at the time you were --
 10 A. **Yes. She was the event coordinator for**
 11 **the one-, two-hour free events.**
 12 Q. Okay. Special event coordinator. Can we
 13 call her that?
 14 A. **Okay.**
 15 Q. You're the event coordinator.
 16 A. **Okay.**
 17 Q. Who did she report to?
 18 A. **Either Megan or James.**
 19 Q. So -- did you know a person by the name
 20 of Josh?
 21 A. **Yes.**
 22 Q. And do you know his title?
 23 A. **No.**
 24 Q. Okay. Do you know --
 25 A. **He had something to do with technology.**

1 Q. Okay. Do you know who he reported to?
 2 A. **Megan or James.**
 3 Q. Something to do with technology?
 4 A. **Yes.**
 5 Q. Alex. Again, he was working there when
 6 you were?
 7 A. **Uh-huh.**
 8 Q. And do you know his title?
 9 A. **I don't know the official title, but he**
 10 **was -- he was in charge of payroll I think.**
 11 Q. So he's the money guy?
 12 A. **Yes.**
 13 Q. Do you know who he reported to?
 14 A. **James or Megan.**
 15 Q. Did you know that Alex had some other
 16 people working for him?
 17 I put the dollar sign for Alex since he
 18 took care of the accounting.
 19 A. **Are you saying did they report to him?**
 20 Q. Yeah. Did you know whether he had some
 21 people helping him out?
 22 A. **I don't recall.**
 23 Q. Now, you told us yesterday that your boss
 24 is Megan. And Megan was the event coordinator for
 25 the Spiritual Warrior 2009; correct?

1 A. **Correct.**
 2 Q. But the -- you were in -- and these are
 3 my words not yours. But you were in the process of
 4 being trained in that regard. Is that a fair
 5 statement?
 6 A. **No.**
 7 Q. Well, you're the event coordinator for
 8 JRI; correct?
 9 A. **Yes.**
 10 Q. But you were not for the Spiritual
 11 Warrior 2009; correct?
 12 A. **Correct.**
 13 Q. You were for other events; correct?
 14 A. **I was the event coordinator for every**
 15 **other event but that one.**
 16 Q. And you went to the Spiritual
 17 Warrior 2009 -- we went through that -- correct?
 18 A. **Yes.**
 19 Q. Before you showed up --
 20 If I can turn on this overhead.
 21 Before you went to Spiritual
 22 Warrior 2009, Megan told you that you needed to get
 23 your CPR training; correct?
 24 A. **Yes.**
 25 Q. And Megan told you that you had to put

1 together a first-aid kit; correct?
 2 A. **For every event. Yes.**
 3 Q. Were they different for different events?
 4 A. **No.**
 5 Q. So she just wanted a first-aid kit for --
 6 for all events?
 7 A. **Correct.**
 8 Q. And were you the person, then, that made
 9 the decision as to what was in the first-aid kit?
 10 A. **It was the same contents for every event.**
 11 Q. Okay. But my question -- and now we're
 12 taking a look, and the jury can see Exhibit 311,
 13 which is in evidence.
 14 My question is, were you the person, the
 15 individual, who made the decision to put these
 16 items in the first-aid kit?
 17 A. **No.**
 18 Q. Was it Megan?
 19 A. **She had a list of what needed to go, and**
 20 **I facilitated getting that. So she actually**
 21 **ultimately was the one who decided what should or**
 22 **should not go in.**
 23 Q. So, as a simple example, if we needed
 24 some Visine in our first-aid kit, Megan gave you a
 25 list and you went down and actually bought those

1 items?
 2 **A. Yes.**
 3 **Q.** And was this before or after your CPR
 4 certification?
 5 **A. It was before and after.**
 6 **Q.** And you put all this together -- and I
 7 don't see a bag. You must have had some kind of
 8 bag.
 9 **A. Yeah. It was a box.**
 10 **Q.** A box. And that was at the direction of
 11 Megan; correct?
 12 **A. Correct.**
 13 **Q.** And during the time period in which you
 14 assembled the first-aid kit, you had no
 15 communication or conversation with Mr. Ray;
 16 correct?
 17 **A. Correct.**
 18 **Q.** When you show up at Spiritual
 19 Warrior 2009 and we -- remember the release? It
 20 was an exhibit that we talked about yesterday?
 21 **A. Yes.**
 22 **Q.** James Ray was not present when the
 23 participants were signing the release; correct?
 24 **A. Correct.**
 25 **Q.** You told us that James Ray did not help

1 in selecting the Dream Team members; correct?
 2 **A. Correct.**
 3 **Q.** But you did, didn't you? Weren't you a
 4 part of --
 5 **A. I was there.**
 6 **Q.** And who else helped you do that?
 7 **A. The people who had been before. So it**
 8 **would have been probably -- do you want their names**
 9 **on the list?**
 10 **Q.** Yeah. Was it Megan?
 11 **A. Yes.**
 12 **Q.** She was there?
 13 **A. Uh-huh.**
 14 **Q.** She seems to be kind of pretty involved
 15 in JRI; correct?
 16 **A. She sure is. Yes.**
 17 **Q.** And the dash lines you said probably?
 18 **A. Uh-huh.**
 19 **Q.** The solid lines were actually you knew
 20 reported to Megan?
 21 **A. Uh-huh.**
 22 **Q.** So Megan and you helped select the Dream
 23 Team members?
 24 **A. Yes.**
 25 **Q.** Anybody else?

1 **A. Sheryl Stern was usually on there.**
 2 **Q.** And Sheryl -- we're not sure of her
 3 title.
 4 **A. Joanna would be involved in the meeting**
 5 **sometimes.**
 6 **Q.** Now this --
 7 **A. Do you have her on --**
 8 **Q.** No, I don't. Where -- what did Joanna
 9 do?
 10 **A. Don't you have Joanna there? She was**
 11 **having --**
 12 **Q.** Oh. I do. We don't know her -- so she
 13 was involved? Sheryl, Joanna, Melinda, Megan?
 14 **A. Becky.**
 15 **Q.** Becky.
 16 **A. Michelle. Michelle Goulet.**
 17 **Q.** Oh. Michelle.
 18 **A. Basically, anyone who has worked with**
 19 **Dream Team members in the past.**
 20 **Q.** So all -- all these people got together,
 21 looked at the applications, made the decision.
 22 Were there personal interviews?
 23 **A. No.**
 24 **Q.** They were written applications that you
 25 reviewed?

1 **A. Yes. I believe they would receive -- and**
 2 **Tina. You don't have Tina on there, but there was**
 3 **a Tina. And they would just receive emails**
 4 **requesting to be on the Dream Team. And since I**
 5 **had never really worked with the Dream team members**
 6 **before, I just was in -- in attendance. But they**
 7 **would all decide who would go.**
 8 **Q.** I made an assumption here. Tina reported
 9 to Megan probably?
 10 **A. Yes.**
 11 **Q.** During that selection process no input
 12 from Mr. Ray; correct?
 13 **A. Correct.**
 14 **Q.** And you told us yesterday that he was
 15 rarely in this office depicted by these various
 16 exhibits; correct?
 17 **A. Correct.**
 18 **Q.** Once you got to the Spiritual
 19 Warrior 2009, which employees are present on the
 20 August 3rd or -- or excuse me. October 3rd is
 21 about when you arrived; correct?
 22 **A. Uh-huh.**
 23 **Q.** Who's present from the employees?
 24 **A. Taylor Butler, Megan, Josh, and Melinda.**
 25 **And Greg came later.**

1 Q. On that day did you then meet the Dream
2 Team members?
3 A. Yes.
4 Q. You mentioned that the Dream Team members
5 then received some training; correct?
6 A. Correct.
7 Q. That training was things such as walking
8 out to your spots at the Vision Quest. We talked
9 about that; correct?
10 A. Yes.
11 Q. Who was present during the training of
12 the Dream Team members?
13 A. Josh, Megan. And I was to a certain
14 extent.
15 Q. So the responsibility of training the
16 Dream Team members, Josh, Megan, and to a certain
17 extent you; correct?
18 A. Correct.
19 Q. Again, James Ray was not there during the
20 training; correct?
21 A. That's correct.
22 Q. What did the training consist of
23 generally?
24 A. It would be on the -- the Dream Team
25 Expectation paper that we had, because I -- I was

1 actually working mostly with the Angel Valley
2 office at that time. So I can't speak specifically
3 about what happened other than just following that
4 paper that you have.
5 Q. The paper, the syntax?
6 A. No. The Dream Team Expectations.
7 Q. Oh. Dream Team Expectations.
8 A. Right. That's what Megan and Josh went
9 over with them.
10 Q. And if we could -- let me see if I can
11 switch this back.
12 May I approach the witness?
13 THE COURT: Yes.
14 Q. BY MR. KELLY: Let me hand you what's
15 been marked as 189. And are those the expectations
16 that you referred to?
17 A. Yes.
18 MR. KELLY: Perhaps we can publish that to the
19 jury, maybe blow it up.
20 May I approach, Judge?
21 THE COURT: Yes.
22 Q. BY MR. KELLY: As an example, in the
23 first or second paragraph under create an
24 environment for growth and learning, it says that
25 the Dream Team members should keep an eye on James

1 and the participants in case they need your
2 assistance; correct?
3 For example, answer questions, take
4 trash, ensure there's no noise -- auditory noise
5 when James is telling a story; correct?
6 A. Correct.
7 Q. It says a couple paragraphs down, never
8 touch or distract a participant when James is
9 working with him or her; correct?
10 A. Correct.
11 Q. Be present, it says. Stay focused on
12 what's going on in the room; correct?
13 A. Correct.
14 Q. And on the final page, the participants'
15 support on 2506. On the Vision Quest, says, know
16 the spot that you are responsible for. You must be
17 able to find them in the dark and in silence. So
18 practice walking to and from these areas or leave
19 as often as you can.
20 You knew -- you told us you had the
21 furthest spots and the most participants; correct?
22 A. Correct.
23 Q. So you walked out there to make sure that
24 you knew where those spots were and you could
25 locate them in the dark; correct?

1 A. Correct.
2 Q. Did you have a Dream Team member helping
3 you?
4 A. Yes.
5 Q. Who was that?
6 A. Barb Waters.
7 Q. So you and Barb, then, practiced this
8 over and over; correct?
9 A. Uh-huh.
10 Q. Then under the sweat lodge, it says, You
11 will assist participants as they enter and exit the
12 sweat lodge; correct?
13 A. Yes.
14 Q. And it further says that if you're inside
15 the sweat lodge you must remain alert and ready to
16 help the entire time; correct?
17 A. Correct.
18 Q. And if you are outside the sweat lodge,
19 be present and ready to quickly and immediately do
20 what's necessary to assist anyone coming out of the
21 sweat lodge; correct?
22 A. Correct.
23 Q. And you told us yesterday that consistent
24 with that theme, you had prepared water,
25 electrolytes, oranges, watermelons, towels, hose,

1 buckets; correct?
 2 **A. Correct.**
 3 **Q.** And your first-aid kit?
 4 **A. Correct.**
 5 **Q.** And what we're talking about, Ms. Martin,
 6 are directions to the Dream Team members; correct?
 7 **A. Correct.**
 8 **Q.** That you as an employee assumed those
 9 response -- or some of those responsibilities, as
 10 well; correct?
 11 **A. Yes.**
 12 **MR. KELLY:** And if we could put up
 13 Exhibit 147.
 14 **Q.** Exhibit 147 shows how some Dream Team
 15 members are outside the sweat lodge during the
 16 event itself doing something called "holding
 17 space"; correct?
 18 **A. Correct.**
 19 **Q.** If we take a look at the laundry
 20 baskets at the --
 21 May I approach the witness, Judge?
 22 **THE COURT:** Yes.
 23 **Q.** BY MR. KELLY: If you take a look at the
 24 laundry baskets, they have the towels that you
 25 described; correct?

1 **A. Yes.**
 2 **Q.** Shows the tarps that you discussed;
 3 correct?
 4 **A. Yes.**
 5 **Q.** The gravel that's immediately outside;
 6 correct?
 7 **A. Uh-huh.**
 8 **Q.** And we talked about yesterday how there's
 9 not really cactus or goatheads; correct?
 10 **A. Correct.**
 11 **Q.** And the buckets. You see the buckets;
 12 correct?
 13 **A. Yes.**
 14 **Q.** Who's the lady there that we're seeing
 15 her Levi's? Do you know?
 16 **A. Which one?**
 17 **Q.** That one with the blonde ponytail.
 18 **A. I believe that's Mr. Mercer's wife.**
 19 **Q.** Debbie?
 20 **A. I didn't know her name. But yes. Okay.**
 21 **Q.** So during the event, these Dream Team
 22 members, then, were attempting to comply with the
 23 training that had been provided by Megan, Josh, and
 24 you several days earlier; correct?
 25 **A. Correct.**

1 **Q.** Now, that training was not -- that wasn't
 2 limited to the sweat lodge. It was each and every
 3 event; correct?
 4 **A. Correct.**
 5 **Q.** And the Holosync breathing -- that
 6 exercise was the exercise with the sound of rain in
 7 the background; correct? Or is that the Holotropic
 8 breathing?
 9 **A. I think Holosync is the rain.**
 10 **Q.** Holosync is the rain. And you described
 11 that as putting you kind of in a daze; correct?
 12 **A. I think so. I don't know what it's**
 13 **supposed to do. But it's meditation. It's what**
 14 **you listen to when you meditate.**
 15 **Q.** But you recall telling the detective on
 16 October 23rd that that particular exercise kind of
 17 put you in a daze; correct?
 18 **A. Yes.**
 19 **Q.** And what was the other one?
 20 **A. Holotropic Breathwork.**
 21 **Q.** Holotropic breathing. That's the drum
 22 beat thing?
 23 **A. They put, like, tribal kind of music on**
 24 **and breathe to it.**
 25 **Q.** And you're -- you weren't a Dream Team

1 member but you're an employee; correct?
 2 **A. Correct.**
 3 **Q.** So you're there to try to help out the
 4 participants as much as possible; correct?
 5 **A. I was more of the logistical person. But**
 6 **yes.**
 7 **Q.** I mean, I -- I understand your duties to
 8 kind of be twofold. You have your job for JRI,
 9 which was the liaison between Angel Valley and JRI.
 10 In addition to that you're not just sitting around.
 11 You're helping these folks if they need some help;
 12 correct?
 13 **A. Correct.**
 14 **Q.** And during that time did you see people
 15 who would fall asleep during those exercises and
 16 they needed to be waked up?
 17 **A. Yes.**
 18 **Q.** You told us about the Samurai Game. Do
 19 you recall that?
 20 **A. Yes.**
 21 **Q.** And you told us that Dr. Marzvaan and her
 22 sister -- and you didn't know which particular one
 23 was which. But one of the two Marzvaan sisters
 24 thought that the Samurai Game was ridiculous and
 25 wanted to go get the other sister and get her out

1 of there; correct?
 2 **A. Correct.**
 3 **Q.** And when she did that, two people were
 4 arguing with the sister that wanted to leave;
 5 correct?
 6 **A. I think it was mostly only Megan that was**
 7 **arguing with her.**
 8 **Q.** I thought you had said Megan and
 9 Christine.
 10 **A. No.**
 11 **Q.** So, again, it's -- it's Megan who's at
 12 the door arguing with the sister who's trying to go
 13 in and get her sister out; correct?
 14 **A. Right.**
 15 **Q.** Did you know they were medicating at the
 16 time?
 17 **A. No.**
 18 **Q.** James Ray wasn't out there attempting to
 19 prevent the sister from going in? It was Megan;
 20 correct?
 21 **A. Correct.**
 22 **Q.** She got pretty loud; correct?
 23 **A. Yes.**
 24 **Q.** She said the Samurai Game is ridiculous,
 25 I believe you told us; correct?

1 **A. Uh-huh.**
 2 **Q.** Did you realize that -- did you meet the
 3 lady by the name of Jeanne Armstrong, a participant
 4 by the name of Jeanne Armstrong?
 5 **A. I -- I know who she is now after the**
 6 **fact.**
 7 **Q.** Do you know -- well, do you today she's a
 8 doctor, medical doctor?
 9 **A. Now I do. Yes.**
 10 **Q.** Do you know that Dr. Armstrong described
 11 the Samurai Game as silly?
 12 **A. I didn't know that. But okay.**
 13 **Q.** But you do know that this Marzvaan sister
 14 said it was ridiculous and -- and she wanted to get
 15 her sister and get out of there; correct?
 16 **A. Right.**
 17 **Q.** After -- and let's talk about what you
 18 personally saw. I take it that you saw Megan --
 19 you saw Megan stopping her at the door saying, no,
 20 you can't go get your sister?
 21 **A. Megan was actually a little further away**
 22 **from the door having this conversation. She kind**
 23 **of took her into a tent a little further down to**
 24 **have this conversation with her.**
 25 **Q.** And you saw that?

1 **A. Yes.**
 2 **Q.** And then -- how long did that
 3 conversation last?
 4 **A. Quite a while. I mean, I didn't stay**
 5 **there the whole time. I was running around. I**
 6 **came back, and they were still talking.**
 7 **Q.** And at some point in time the sister
 8 leaves -- what happens? Does the sister on the
 9 inside come out or does that sister go in and get
 10 her?
 11 **A. The other sister -- we were able to get**
 12 **her and bring her out.**
 13 **Q.** Did you help do that?
 14 **A. Yes.**
 15 **Q.** Okay. So you see Megan talking to the
 16 sister that thinks it's ridiculous. I want to get
 17 my sister and go home. And you're the person that
 18 actually goes in there and gets the other sister?
 19 **A. Yes.**
 20 **Q.** And who helped --
 21 **A. I think -- I think I might have had**
 22 **another Dream Team member with me at that time as**
 23 **well.**
 24 **Q.** And, again, it was you and the Dream Team
 25 that got the second sister to bring her out;

1 correct? It was not James Ray; correct?
 2 **A. That's right.**
 3 **Q.** And it was not James Ray that was
 4 speaking to the sister that thought it was
 5 ridiculous; correct?
 6 **A. Correct.**
 7 **Q.** Then you took them up to their room. You
 8 tried to unruffle the feathers a little bit and
 9 arrange for their transportation out of there;
 10 correct?
 11 **A. Right.**
 12 **Q.** So you would agree with me as to the
 13 Marzvaan sisters, they made the choice not to
 14 participate anymore in these activities; correct?
 15 **A. Correct.**
 16 **Q.** You were asked some questions by Ms. Polk
 17 on direct about safety precautions. We saw the
 18 first-aid kit that -- that you put together?
 19 **A. Uh-huh.**
 20 **Q.** You talked about your CPR training. And
 21 you're also aware that from the very first session,
 22 within the first few lines, that James Ray told
 23 everyone to hydrate, hydrate, hydrate; correct?
 24 **A. Uh-huh.**
 25 **Q.** You have to say yes or no.

- 1 **A. During the first session?**
 2 **Q. Yes.**
 3 **A. I believe that was what he said.**
 4 **Q. And every participant was issued the**
 5 **water bottles that -- that you and Ms. Polk**
 6 **identified; correct?**
 7 **A. Uh-huh. Yes.**
 8 **Q. Did you have one of those?**
 9 **A. I did.**
 10 **Q. You made sure as an employee of JRI that**
 11 **there was plenty of water everywhere these people**
 12 **went; correct?**
 13 **A. Right.**
 14 **Q. And you got the water from Angel Valley;**
 15 **correct?**
 16 **A. Correct.**
 17 **Q. You saw participants fill up those water**
 18 **bottles anytime they wanted to; correct?**
 19 **A. Yes.**
 20 **Q. No one stopped them from doing that but,**
 21 **in fact, encouraged them to do that; correct?**
 22 **A. Correct.**
 23 **Q. Did you encourage them?**
 24 **A. Sure.**
 25 **Q. Did you see Megan encourage them?**

- 1 **A. Sure.**
 2 **Q. Josh?**
 3 **A. Yes. We kept water there for them.**
 4 **Q. I think you told me earlier that at some**
 5 **point -- did you say Taylor showed up at the**
 6 **Spiritual Warrior?**
 7 **A. Taylor just was with James so --**
 8 **Q. So you don't know when?**
 9 **A. I don't really. I didn't keep track of**
 10 **her whereabouts.**
 11 **Q. And you don't know the date that James**
 12 **showed up at Spiritual Warrior; correct?**
 13 **A. I do not.**
 14 **Q. And you don't know what he was doing --**
 15 **other than what's been described when he had**
 16 **personal knowledge of contact with you, you don't**
 17 **know what he's doing the rest of the time; correct?**
 18 **A. That's right.**
 19 **Q. In addition to the water bottles, you**
 20 **recall James Ray telling people who entered the**
 21 **sweat lodge to stay low? Do you recall that?**
 22 **A. Yes.**
 23 **Q. And the reason is because heat rises,**
 24 **cooler on the bottom; correct?**
 25 **A. Correct.**

- 1 **Q. You did not attend the presweat lodge**
 2 **presentation; correct?**
 3 **A. Correct.**
 4 **Q. Would it surprise you to learn that James**
 5 **talked about the proper manner in which to leave**
 6 **the sweat lodge if you had to leave?**
 7 **A. No.**
 8 **Q. Did you hear other participants talk**
 9 **about that, how to get out?**
 10 **A. No.**
 11 **Q. To leave in a clockwise manner, only go**
 12 **out when the flap is open?**
 13 **A. No. I didn't hear that.**
 14 **Q. But those would be additional safety**
 15 **precautions if they occurred; correct?**
 16 **A. That was typical. Yes.**
 17 **Q. We mentioned the hose, the towels, the**
 18 **electrolytes, the fruit, the water buckets, and the**
 19 **tarps; correct?**
 20 **A. Yes.**
 21 **Q. You know, I believe you told us on direct**
 22 **that it -- and correct me if I'm wrong -- that it**
 23 **was Barb Waters and Christine Jobe that blocked the**
 24 **door. So Megan was talking to the Marzvaan sister**
 25 **and those two Dream Team members were blocking the**

- 1 **door; correct?**
 2 **A. Yes.**
 3 **Q. It wasn't you; correct?**
 4 **A. Correct.**
 5 **Q. Sister became very loud; correct?**
 6 **A. Correct.**
 7 **Q. During this Samurai Game you understood,**
 8 **Ms. Martin, that you were not really an angel of**
 9 **death; correct?**
 10 **A. Yes.**
 11 **Q. In fact, you found these costumes in --**
 12 **in California before the Spiritual Warrior;**
 13 **correct?**
 14 **A. Yes.**
 15 **Q. That was your job?**
 16 **A. I had to buy more of what they already**
 17 **had. But yes.**
 18 **Q. And you found them from a movie set of**
 19 **some type?**
 20 **A. Just a costume store.**
 21 **Q. Costume store where, like, you'd get -- a**
 22 **place where you might get a Halloween costume?**
 23 **A. Correct.**
 24 **Q. And you knew before you went to Spiritual**
 25 **Warrior 2009 that this game was going to be played;**

1 correct?

2 **A. Correct.**

3 **Q.** And you weren't -- you had never played
4 it before; correct?

5 **A. Correct.**

6 **Q.** And your role in the game was an angel of
7 death, which was to transport participants from the
8 Crystal Hall to what they called "the cemetery" in
9 a golf cart; correct?

10 **A. Correct.**

11 **Q.** Now, again, at one point in your
12 testimony you said they were dragged from the
13 Crystal Hall to the cemetery. And what you meant
14 was it was your job to make sure that they were put
15 in the cart, they remained silent, they moved as
16 little as possible, and they went to the cemetery;
17 correct?

18 **A. Correct.**

19 **Q.** We heard testimony, I believe, from
20 Melissa Phillips that people -- when they'd walk
21 they'd have to put their hands on each other's
22 shoulders, keep their eyes closed; and then you
23 guys would direct them where to go.

24 Do you recall that?

25 **A. I actually was in the -- the Heart**

1 **Pavilion at the time setting up for the game, so I**
2 **didn't really participate in transferring people.**

3 **Q.** In addition to your role in this game as
4 an angel of death, there were other roles such as a
5 ninja; correct?

6 **A. Uh-huh.**

7 **Q.** You'll have to say yes.

8 **A. Yes.**

9 **Q.** You told us that James Ray played the
10 position of God; correct?

11 **A. Correct.**

12 **Q.** And you knew that James was not God;
13 correct?

14 **A. Correct.**

15 **Q.** That he was playing that role; correct?

16 **A. Yes.**

17 **Q.** As you sit here today, you don't think
18 he's God; correct?

19 **A. Correct.**

20 **Q.** There was something called a "domeo," I
21 think. Do you recall those costumes?

22 **A. Uh-huh. Yes. Something like that.**

23 **Q.** And some of these positions, I
24 understand, were actually selected by the
25 participants. Correct?

1 **A. Yes. I believe.**

2 **Q.** I don't think your position was, but
3 other positions were; correct?

4 **A. Correct.**

5 **Q.** So the participants had a -- kind of a
6 hands-on -- there was a hands-on aspect of this
7 game; correct?

8 **A. Correct.**

9 **Q.** And it was a team-building exercise;
10 correct?

11 **A. That's right.**

12 **Q.** Did you -- during your employment as a
13 real estate broker and agent or working for the law
14 firm, did you go to seminars where there were these
15 types of corporate exercises?

16 **A. No.**

17 **Q.** But you weren't surprised when you saw
18 these types of things where James Ray International
19 putting on activities to help people solve their
20 problems? I mean, that's the bottom line; correct?

21 **A. Okay. I've never seen anything quite**
22 **like that. But yeah. I mean --**

23 **Q.** Well -- and that was a poor question.
24 But you understood from the moment you arrived, as
25 well as the previous six months, the events you

1 went to people were making a decision to attend an
2 event for some individual purpose that they may
3 have identified; correct?

4 **A. That's correct.**

5 **Q.** And you told us that -- about
6 recapitulation where they write in their journals.
7 Do you recall that? Correct?

8 **A. Yes.**

9 **Q.** Nobody else read those journals; correct?

10 **A. I don't think so.**

11 **Q.** Well, in fact, right before the sweat
12 lodge, everyone went and burned their journals. Do
13 you recall that?

14 **A. Yes.**

15 **Q.** So this was a very personal thing to
16 identify any particular issues that you may want to
17 address during the seminar; correct?

18 **A. Correct.**

19 **Q.** And you were not a participant so you
20 didn't do that stuff?

21 **A. Correct.**

22 **Q.** Were you aware that in addition to the
23 topic of sex there were other topics that people
24 could write on?

25 **A. I -- I didn't know too much about it.**

1 Q. But you wouldn't have any reason to
2 dispute that there were other topics that could be
3 addressed during these exercises --
4 A. Correct.
5 Q. -- correct?
6 Now, when you lead the -- your 23
7 participants out to the Vision Quest, drop them off
8 at night, they're not left with any lights;
9 correct?
10 A. Correct.
11 Q. But they do have a sleeping bag; correct?
12 A. If they chose to bring one.
13 Q. Some people didn't even bring a sleeping
14 bag?
15 A. Right.
16 Q. It was a full moon; correct?
17 A. Yes.
18 Q. So you could still see even though you
19 didn't have a flashlight; correct?
20 A. Right.
21 Q. But probably couldn't see well enough to
22 write; correct?
23 A. Correct.
24 Q. So they went to sleep. Is that your
25 understanding?

1 A. Yes.
2 Q. And this is October of 2009. I don't
3 know the exact numbers of daylight versus dark.
4 But when it got dark, they could go to sleep;
5 correct?
6 A. Correct.
7 Q. They were not allowed to bring water and
8 food to the Vision Quest; correct?
9 A. Correct.
10 Q. Did you realize that some people may have
11 done that?
12 MS. POLK: Objection, Judge. Assumes facts
13 not in evidence.
14 THE COURT: Sustained.
15 Q. BY MR. KELLY: Did you know that
16 Dr. Armstrong actually brought some food in her --
17 A. No.
18 Q. -- backpack?
19 So when you took the 23 people out, you
20 didn't check their gear to make sure that they
21 didn't have food or water; correct?
22 A. Correct.
23 Q. But if they were going to play full on,
24 as we've heard, and get the most out of these
25 activities and experiences and have character and

1 honor, then they shouldn't be doing that; correct?
2 A. Correct.
3 Q. Now, when they're out at the Vision
4 Quest, you and -- told us the names of the ladies.
5 You -- you and Liz Neuman, Lisa, Barb, Christine,
6 and Jennifer Haley go to Sedona; correct?
7 A. Correct.
8 Q. Get the sparkles in your hair, you go
9 shopping, you go to lunch or something, you come
10 back; correct?
11 A. Correct.
12 Q. And you told us that it was Jennifer
13 Haley that bought the four bottles of wine?
14 A. No.
15 Q. Did you buy them?
16 A. I don't know who bought them.
17 Q. Well, Jennifer Haley said it was your
18 idea.
19 A. Oh.
20 Q. Do you recall that?
21 A. No. It wasn't my idea.
22 Q. Okay. You don't think it was your idea?
23 A. No. It was a collaborative idea.
24 Q. So when you get back, I think you told us
25 that -- that James comes through the -- were you in

1 the dining hall?
2 A. Yes.
3 Q. And he comes through the dining hall. He
4 sees the four unopened bottles of wine, doesn't say
5 anything about the wine and leaves; correct?
6 A. Correct.
7 Q. Then he comes back and the wine had been
8 opened; correct?
9 A. Correct.
10 Q. And he holds you personally responsible
11 is your testimony; correct?
12 A. Correct.
13 Q. And he -- I think you told the detective
14 he screamed at you. Those are the words you used?
15 A. Okay.
16 Q. So he seemed pretty angry; correct?
17 A. He was very angry.
18 Q. And did you realize that there was a
19 no-alcohol rule at this event?
20 A. No.
21 Q. But in any event, your testimony is that
22 James got pretty upset with you; correct?
23 A. Yes.
24 Q. And then what happens is these other
25 ladies all come to your defense; correct?

1 A. Yes.
 2 Q. They're pretty upset.
 3 A. Uh-huh.
 4 Q. And one of them actually writes a letter
 5 to James; correct?
 6 A. **She said she was going to.**
 7 Q. And was that Liz?
 8 A. **I think Barb Waters mentioned she was.**
 9 **And Liz. I'm not sure.**
 10 Q. So they were clearly bucking the
 11 authority of James Ray when -- after he had, in
 12 your opinion, acted inappropriately with you;
 13 correct?
 14 A. **Yes. They told me they were. I don't**
 15 **know if they went through it. But yeah. That's**
 16 **what they said.**
 17 Q. Now, Liz Neuman -- she didn't participate
 18 in the Vision Quest; correct?
 19 A. **Correct.**
 20 Q. She was with you?
 21 A. **Correct.**
 22 Q. When you -- after you had taken your
 23 people out to the Vision Quest, you went back to
 24 your room and you went to sleep; correct?
 25 A. **Yes.**

1 Q. And you slept the following night;
 2 correct?
 3 A. **Yes.**
 4 Q. Was Liz your roommate?
 5 A. **No.**
 6 Q. You told us that Liz gave you an angel.
 7 I think it was with the quote, well-behaved women
 8 rarely make history. Correct?
 9 A. **Correct.**
 10 Q. Did you realize that's an Eleanor
 11 Roosevelt quote?
 12 A. **I've heard that now since then.**
 13 Q. And what that to me implies is that a
 14 person like you and Liz are the type of people who
 15 are going to exercise free choice, independence, do
 16 what you think is right versus what you're told to
 17 do. Correct?
 18 A. **Correct.**
 19 Q. Liz didn't cut her hair during the
 20 haircutting exercise; correct?
 21 A. **Correct.**
 22 Q. I asked you this question. But you were
 23 not present at the presweat lodge briefing;
 24 correct?
 25 A. **Correct.**

1 Q. Did you -- and so I'm going to ask you,
 2 do you have any reason to dispute that Mr. Ray told
 3 all the participants that this was going to be very
 4 hot? I think the words were, hot, hotter, hotter
 5 than you've ever experienced.
 6 A. **I have no reason to dispute that. No.**
 7 Q. Did you know that a lady by the name of
 8 Elsa after hearing that left?
 9 A. **No.**
 10 Q. With the -- if I understand your
 11 testimony correctly, from the beginning of the
 12 Spiritual Warrior 2009, the day you arrived until
 13 the time that you left, when you went to the
 14 Flagstaff Hospital, the only conversation you had
 15 with James Ray was in regards to the wine.
 16 Correct?
 17 A. **Yes. Correct.**
 18 Q. Now, I understand that he was standing
 19 over you as you were performing CPR on Kirby. So
 20 you saw him. But there was no conversation at that
 21 time; correct?
 22 A. **That's correct.**
 23 Q. So no conversation with him at all other
 24 than as it relates to having the wine on the
 25 premises; correct?

1 A. **Correct.**
 2 Q. Now, you knew that as the liaison between
 3 Angel Valley and --
 4 If we could put up Exhibit 140.
 5 May I approach, Judge?
 6 THE COURT: Yes, you may.
 7 Q. BY MR. KELLY: This is Exhibit 140. It
 8 may be easier to for you to read, Ms. Martin. We
 9 talked about this yesterday. This -- the actual
 10 exhibit is color, and it's in your hand; correct?
 11 A. **Correct.**
 12 Q. It actually has two sides which -- right
 13 here we only have one side. If we go back to the
 14 other page, it identifies the sweat lodge; correct?
 15 A. **Yes.**
 16 Q. And this sweat lodge, you knew as the
 17 liaison, was a sweat lodge that belonged to Angel
 18 Valley; correct?
 19 A. **Yes.**
 20 Q. You knew that JRI had nothing to do with
 21 the construction of the sweat lodge; correct?
 22 A. **Yes.**
 23 Q. That you -- JRI contracted with JRI --
 24 excuse me.
 25 JRI contracted with Angel Valley to build

1 the sweat lodge; correct?
 2 **A. Correct.**
 3 **Q.** Now, were you there when the sweat lodge
 4 was constructed?
 5 **A. No.**
 6 **Q.** As the liaison between JRI and Angel
 7 Valley, did you inspect the sweat lodge at any
 8 time?
 9 **A. No.**
 10 **Q.** JRI -- do you understand that JRI had to
 11 pay money to lease these facilities on behalf of
 12 their activities?
 13 **A. I wasn't privy to that. No.**
 14 **Q.** Given your background as a realtor and
 15 working for a law firm, you wouldn't find that
 16 unusual that this corporation had to rent from that
 17 entity the premises known or referred to as "Angel
 18 Valley"; correct?
 19 **A. It wouldn't surprise me. No.**
 20 **Q.** And that would include the sweat lodge;
 21 correct?
 22 **A. Correct.**
 23 **Q.** When I asked you about the sweat lodge
 24 itself, you told us that you're not at the pre --
 25 well, let me ask you this question first.

1 If we can put up Exhibit 146.
 2 You told us on direct that you believed
 3 the lady in the foreground was Barbara Water --
 4 Waters; correct?
 5 **A. I can't tell.**
 6 **Q.** I mean, do you remember making that
 7 statement?
 8 **A. I did, but it -- I shouldn't have because**
 9 **I really can't tell who she is.**
 10 **Q.** Thank you. So you don't know who that
 11 is?
 12 **A. Right.**
 13 **Q.** And you told us that this was Lisa
 14 Riordan (sic)?
 15 **A. No. I don't think I said that. But I'm**
 16 **not sure who that is.**
 17 **Q.** Okay. And you told us that this person
 18 was Michelle?
 19 **A. It's Jennifer Haley.**
 20 **Q.** Right. So that was simply a mistake;
 21 correct?
 22 **A. Correct.**
 23 **Q.** These people -- if we could -- I don't
 24 know -- they're wearing blue T-shirts with the
 25 exception of Jennifer; correct?

1 **A. Correct.**
 2 **MR. KELLY:** If we can blow one of those up.
 3 **Q.** Do you recall, just from your personal
 4 memory, that those blue T-shirts said Dream Team,
 5 James Ray International?
 6 **A. Yes.**
 7 **Q.** And you told us yesterday you're not even
 8 sure if this is the 2009 sweat lodge; correct?
 9 **A. Correct.**
 10 **Q.** But you don't have any reason to dispute
 11 that it is?
 12 **A. Correct.**
 13 **Q.** And you recall chairs being outside the
 14 sweat lodge for participants to sit in when they
 15 came out; correct?
 16 **A. Yes. But they were on this side instead.**
 17 **Q.** Let's take a look at Exhibit 145. Do you
 18 recognize 145 as just a different perspective of --
 19 of the same sweat lodge?
 20 **A. Yes. Except for the chairs are actually**
 21 **on the left side of the sweat lodge. Perhaps the**
 22 **picture was just switched. But the door -- the**
 23 **chairs were left of the door exactly as it shows**
 24 **there.**
 25 **Q.** All right. And this is Debbie Mercer --

1 **A. Correct.**
 2 **Q.** -- correct?
 3 Dream Team members?
 4 **A. Yes.**
 5 **Q.** You identified Jennifer Haley back here;
 6 correct?
 7 **A. Correct.**
 8 **Q.** Do you recognize this as Ted taking a
 9 drink of.
 10 Water?
 11 **A. No.**
 12 **Q.** Okay. You recognize this as the flap to
 13 the sweat lodge; correct?
 14 **A. Correct.**
 15 **Q.** And the fire; correct?
 16 **A. Correct.**
 17 **Q.** Now, you told us yesterday that this is
 18 the fire in which the -- the journals, the
 19 recapitulation journals, were burned. But that may
 20 not be correct?
 21 **A. Well, there were two different fires --**
 22 **one for the rocks and one for the recapitulation**
 23 **journals.**
 24 **Q.** Did -- when you -- as the liaison on
 25 behalf of JRI, did you happen to inspect the wood

1 that they were going to burn --

2 **A. No.**

3 **Q. -- during this event?**

4 Did you see any bugs or insects or
5 anything like that in -- in this area during the --
6 during your time period there?

7 **A. No.**

8 **Q. I take it from this photograph that since**
9 **the people are holding space and the flap is down**
10 **that this is during a -- a round itself. Correct?**

11 **A. Sure. Yes.**

12 **Q. And you told us yesterday that in the**
13 **first round -- or excuse me. After the first round**
14 **a lady came out and was quite upset. And -- and**
15 **I'm paraphrasing, but said something to the effect**
16 **I want to go back or I want to be back the way I**
17 **was. Something to that effect; correct?**

18 **A. Right.**

19 **Q. Now, you're not in this photograph;**
20 **correct?**

21 **A. Correct.**

22 **Q. So tell us where you took her -- and you**
23 **can use your finger -- and sat her down to talk to**
24 **her.**

25 **A. Outside the photo on the left, there were**

1 **more -- another row of chairs to the left where you**
2 **can't see.**

3 **Q. Let's put up Exhibit 144. And I'm going**
4 **to --**

5 May I approach, Judge?

6 THE COURT: Yes.

7 **Q. BY MR. KELLY: Sometimes these are easier**
8 **to see. Now, 144 is a picture of the participants**
9 **entering the sweat lodge; correct?**

10 **A. Correct.**

11 **Q. Can you identify the lady that you helped**
12 **after the first round in Exhibit 144?**

13 **A. No.**

14 **Q. Do you know her name?**

15 **A. You know, I forgot her name until it was**
16 **jogged yesterday. But no.**

17 **Q. You told us yesterday that consistent**
18 **with the training, three Dream Team members entered**
19 **the inside of the sweat lodge; correct?**

20 **A. Yes.**

21 **Q. That was Mark Rock, Liz Neuman, and**
22 **Aaron --**

23 **A. Correct.**

24 **Q. -- correct?**

25 **A. Yes.**

1 **Q. In addition to that, some employees were**
2 **inside -- Greg Hartle, Megan, Josh, Taylor, Michael**
3 **Barber?**

4 **A. Yes.**

5 **Q. And James Ray; correct?**

6 **A. Correct.**

7 **Q. Where's Michael on here? Do you know**
8 **what he does for JRI?**

9 **A. Yes.**

10 **Q. So we might have forgot him. What does**
11 **he do?**

12 **A. He -- he actually was a vendor. So he**
13 **wasn't an actual employee.**

14 **Q. Okay. So he's by himself?**

15 **A. Right.**

16 **Q. And the Dream Team members, then, go**
17 **inside the sweat lodge consistent with their**
18 **training, as well as these employees on the --**
19 **correct?**

20 **A. Correct.**

21 **Q. On the first round this lady comes out**
22 **and she says that -- I didn't write it down. But**
23 **what I recall is something like, I want to go back**
24 **or I want to be back or --**

25 **A. Something like that.**

1 **Q. And as a result of that, you considered**
2 **her to be in distress and you helped her; correct?**

3 **A. Correct.**

4 **Q. Did you give her something to drink?**

5 **A. Yes.**

6 **Q. Did you give her any of that fruit?**

7 **A. I offered.**

8 **Q. Electrolytes?**

9 **A. I offered everything.**

10 **Q. Did you hose her down?**

11 **A. I don't recall.**

12 **Q. And how long did you spend with her?**

13 **A. I don't recall.**

14 **Q. I mean --**

15 **A. Five minutes.**

16 **Q. Minutes, not hours?**

17 **A. Yes.**

18 **Q. And during that time, Ms. Martin, other**
19 **people were coming out of the sweat lodge; correct?**

20 **A. I believe.**

21 **Q. And those other people -- there were**
22 **Dream Team members consistent with the**
23 **responsibilities we discussed that were helping**
24 **them; correct?**

25 **A. Correct.**

1 Q. After you helped this lady after the
2 first round, then you leave and go up to your room;
3 correct?
4 A. Yes.
5 Q. And why did you have to go up there? I
6 forgot.
7 A. At some point I -- when I -- when there
8 was a peaceful moment, I ran up -- or when I had a
9 break, I ran up to put shorts on because it was
10 getting warmer.
11 Q. That's right. Because to change your
12 clothes. It was getting warmer.
13 So when you left this lady, you had
14 already received your first-aid certification and
15 your CPR certification --
16 A. Uh-huh.
17 Q. -- correct?
18 A. Uh-huh.
19 Q. Correct?
20 A. Correct.
21 Q. And based on your assessment of her, she
22 was fine; correct?
23 A. She was communicating with me.
24 Q. Otherwise you wouldn't have left her;
25 right?

1 A. Correct.
2 Q. Okay. So you're up at your room changing
3 your clothes. And you come down -- back down. And
4 that's when Lou Caci had fallen into the hot rocks?
5 A. At some point thereabouts.
6 Q. And that's what I'm getting at. I'm
7 asking you to try to think back. And I realize
8 it's been a year and a half. And I thank you for
9 your attempt to not exaggerate and just kind of
10 think about what you actually remember.
11 But when you come back down, was Lou then
12 outside of the tent?
13 A. When I came down, it was -- there was a
14 different scene. It was sort of a peaceful scene.
15 And I thought oh, my gosh.
16 Q. Peaceful when you left?
17 A. Yeah. It was much more peaceful. When I
18 came back, there were -- was a lot more activity.
19 Q. Okay. And -- but -- and something draws
20 your attention to Lou Caci is what you told us;
21 correct?
22 A. Yes.
23 Q. So is he outside?
24 A. I believe so. Yes.
25 Q. And I don't want you guessing. Okay?

1 A. Okay.
2 Q. So you think he's outside at this point?
3 A. Yes.
4 Q. And you clearly remember that his arm was
5 burned; correct?
6 A. Yes. I don't remember which round
7 because I wasn't keeping track of rounds. But yes.
8 He was outside.
9 Q. And -- and you knew -- you knew his arm
10 was burned. And based on your first-aid training,
11 you suggested they immerse it in ice water;
12 correct?
13 A. No. I suggested they take it out of the
14 ice water.
15 Q. Oh. Take it out. They already had it --
16 A. It was already submerged in ice water.
17 Q. So then that helps clarify the sequence
18 of events. Because now you know clearly that when
19 you came back down, Lou already had his arm in the
20 bucket; correct?
21 A. Right.
22 Q. And you don't know which round this was,
23 of course?
24 A. Correct.
25 Q. And I think you told us that you at that

1 time used the first-aid kit and actually bandaged
2 up Lou's arm with some gauze and so forth; correct?
3 A. Yeah. Whatever I could find.
4 Q. Did you put any type of salve on it or
5 anything?
6 A. No.
7 Q. And you're not supposed to do that;
8 right?
9 A. Right.
10 Q. And then Lou said, I need to go back in;
11 correct?
12 A. Correct.
13 Q. And you didn't think that was a good
14 idea.
15 A. I didn't.
16 Q. But he went in anyway; correct?
17 A. Correct.
18 Q. And I thought you told us that someone
19 else was discouraging him from going back
20 through -- in as well. Correct?
21 A. I recall Jennifer Haley also suggesting
22 that he was finished.
23 Q. And he goes back in despite your request
24 that he not do that; correct?
25 A. Correct.

1 Q. And, of course, at this time -- point in
2 time you're still an employee of JRI; correct?
3 A. Correct.
4 Q. And you're telling one of these
5 participants, not another employer or Dream Team
6 member, don't go back in the tent; correct?
7 A. I suggested that he didn't have to. But
8 he did what he came to do.
9 Q. He ignored your advice and went back in?
10 A. Yes.
11 Q. And I think we covered it yesterday with
12 the medical reports. There aren't any burns on his
13 legs?
14 A. I thought I had recalled but --
15 Q. Maybe they were scraped or something;
16 correct?
17 A. Maybe.
18 Q. You told us that Marta -- Marta Reis?
19 A. Uh-huh. Yes.
20 Q. Now, who is Marta?
21 A. She's a vendor.
22 Q. So she's down here with Michael, not an
23 employee but a vendor?
24 A. Correct.
25 Q. And when you say "vendor," do you know

1 what they're contracting with JRI to provide?
2 A. She was usually contracted to do the
3 PowerPoint. But in this case we didn't have
4 PowerPoint.
5 Q. So you don't know in this case?
6 A. In this case she came -- she just worked
7 the music and helped with the audiovisual, anything
8 that we had.
9 Q. And I didn't ask you. Michael. What was
10 he contracting?
11 A. Michael did the staging, lighting.
12 Q. So Marta comes out of the sweat lodge and
13 says something to the effect to you, get that look
14 off your face?
15 A. Marta was not in the sweat lodge.
16 Q. Okay. She's just outside?
17 A. Correct.
18 Q. Where is she in -- if you can find her in
19 one of these photographs, either Exhibit 145 or
20 146.
21 A. She's in this one.
22 Q. I'm sorry. I didn't --
23 A. She's in this one.
24 MR. KELLY: So if we could publish 147.
25 Q. So the lady in the black outfit is Marta?

1 A. Yes.
2 Q. She's the vendor for JRI. And she's the
3 one that tells you, get that look off your face;
4 correct?
5 A. Correct.
6 Q. She's not an employee of JRI; correct?
7 A. That's right.
8 Q. And does that happen, then, when you come
9 back down to help Lou with his -- with his arm in
10 the water? Is it that time frame that we're
11 talking about?
12 A. No. She mentioned that to me when the --
13 Dennis was yelling and I was -- had that look of
14 shock on my face when he was screaming so much.
15 Q. So is that after Lou goes back in?
16 A. I don't recall.
17 Q. Was it the first round?
18 A. When she said that to me?
19 Q. Yeah.
20 A. I know -- I -- it was some point when
21 Dennis was yelling and I had the look of alarm and
22 she said that to me.
23 Q. Okay. And I'm asking you to try to
24 remember what you can. You say the first round the
25 lady with the chair. And I don't want to go back.

1 You go up to your room. You come back down. You
2 see Lou with the ice water; correct?
3 A. Yes.
4 Q. So you're not there between the time that
5 you leave until the time you get back; correct?
6 A. Correct.
7 Q. So I guess I'm trying to identify, does
8 Marta say this to you at the first round or after
9 you get back?
10 A. She made a couple comments to me along
11 those lines. So at that time --
12 Q. The first round?
13 A. I can't -- I don't know -- I don't think
14 it was, because I didn't have that look of alarm
15 that badly when the first girl came out.
16 Q. So this would have been after Lou fell on
17 the rocks?
18 A. Presumably. I don't know if Dennis came
19 out before or after.
20 Q. But -- but you -- again, you can -- you
21 only know that when you came back and you saw Lou,
22 you would have no ability to know what happened
23 before that; correct?
24 A. That's right.
25 Q. Okay. So. Again, when this is

1 happening, when the -- when the lady comes out,
 2 sits on the chair, James Ray does not say anything
 3 to the lady; correct?
 4 **A. Correct.**
 5 **Q.** And you don't go in and say anything to
 6 James Ray; correct?
 7 **A. Correct.**
 8 **Q.** When Lou Caci comes out and you treat his
 9 arm and he says, Hey, I want to go back in; and you
 10 say, no, you shouldn't do that, there's no
 11 communication with James Ray; correct?
 12 **A. Correct.**
 13 **Q.** And you don't go tell James, Hey, this
 14 guy shouldn't come back in; correct?
 15 **A. Correct.**
 16 **Q.** You told us Marta, the vendor, says, get
 17 that look off your face. And that look is a look
 18 of concern; correct?
 19 **A. She -- at that moment she said, let him**
 20 **have his own experience. Don't encourage him or**
 21 **discourage him. That's what she said.**
 22 **Q.** And let's make it clear. We're talking
 23 about Dennis now?
 24 **A. No.**
 25 **Q.** Lou?

1 **A. When I was with Lou --**
 2 **Q.** Okay.
 3 **A. -- Marta made another comment -- or made**
 4 **a comment to me at that point telling me I should**
 5 **not disturb him. If he wants to go back in, that's**
 6 **up to him. Let him have his own experience.**
 7 **Q.** And when Marta says, let him have that --
 8 his own experience --
 9 Strike that question.
 10 When she says, get the look off your
 11 face --
 12 **A. Uh-huh.**
 13 **Q.** -- it's a look of concern about what's
 14 happening; correct?
 15 **A. Correct.**
 16 **Q.** When she says, let him have his own
 17 experience, she's speaking in regards to Lou --
 18 **A. Yes.**
 19 **Q.** -- correct?
 20 And at that point in time it's not James
 21 Ray saying, let him have his own experience;
 22 correct?
 23 **A. Correct.**
 24 **Q.** Marta, to your knowledge, doesn't go in
 25 and tell James Ray, let him have his own

1 experience; correct?
 2 **A. Correct.**
 3 **Q.** And you don't go in and say, hey -- you
 4 know -- this isn't right. Don't let this guy have
 5 his own experience. Correct?
 6 **A. Correct.**
 7 **Q.** Then Dennis after that? Is that your
 8 recollection?
 9 **A. Again, I can't recall if Dennis came**
 10 **before or after Lou.**
 11 **MR. KELLY:** Judge, is this a good time?
 12 **THE COURT:** Yes.
 13 Ladies and gentlemen, we'll take the
 14 morning recess. Please be reassembled in 15
 15 minutes. We'll come back as soon as we can after
 16 that.
 17 And, Ms. Martin, you're also excused.
 18 Thank you.
 19 (Recess.)
 20 **THE COURT:** The record will show the
 21 presence of the defendant, Mr. Ray, the attorneys
 22 the jury. Ms. Martin is on the witness stand.
 23 Mr. Kelly.
 24 **Q.** BY MR. KELLY: Ms. Martin, I've moved our
 25 little chart. But right before the break you said

1 that Marta came up to Lou and said something like,
 2 let him have his own experience; correct?
 3 **A. She didn't say it to Lou. She said it to**
 4 **me and to Jennifer -- or to me especially.**
 5 **Q.** You and Jennifer that were trying to
 6 encourage Lou not to go back in the sweat lodge?
 7 **A. Correct.**
 8 **Q.** And what I wanted to point out is that
 9 JRI had many different functions; correct?
 10 **A. Correct.**
 11 **Q.** Had a training function; correct?
 12 **A. Correct.**
 13 **Q.** Logistics; correct?
 14 **A. Correct.**
 15 **Q.** And in this particular 2009 Angel Valley
 16 event, you were kind of the lead person in regards
 17 to being a liaison between Angel Valley and JRI;
 18 correct?
 19 **A. Correct.**
 20 **Q.** The point -- point man or point woman;
 21 correct?
 22 **A. Correct.**
 23 **Q.** They had a billing function; correct?
 24 **A. A which one?**
 25 **Q.** Billing.

- 1 **A. Billing?**
 2 **Q.** You know. Where they send bills to
 3 people that owe them money, if you know?
 4 **A. I didn't do that.**
 5 **Q.** They had a marketing aspect to the
 6 company.
 7 **A. I'm sorry. I lost you. Are you talking**
 8 **about Angel Valley or JRI?**
 9 **Q.** No. I was very unclear.
 10 JRI had a training function; correct?
 11 **A. Yes.**
 12 **Q.** The logistics function; correct?
 13 **A. Correct.**
 14 **Q.** Part of that in this particular event was
 15 your liaison work; correct?
 16 **A. Correct.**
 17 **Q.** A billing function; correct?
 18 **A. Correct.**
 19 **Q.** Marketing; correct?
 20 **A. Correct.**
 21 **Q.** Advertising; correct?
 22 **A. Correct.**
 23 **Q.** Facilities management; correct?
 24 **A. Correct.**
 25 **Q.** Staging; correct?

- 1 **A. Correct.**
 2 **Q.** Customer support?
 3 **A. Correct.**
 4 **Q.** And they even had a community outreach
 5 program? The corporation did; correct?
 6 **A. I believe so.**
 7 **Q.** And there were people -- there were
 8 people assigned to all those various functions of
 9 JRI; correct?
 10 **A. Yes.**
 11 **Q.** But James Ray's -- his job was to speak;
 12 correct?
 13 **A. Correct.**
 14 **Q.** In other words, he talked; correct?
 15 **A. Correct.**
 16 **Q.** And during 2009 Spiritual Warrior, you
 17 told us on direct that you would occasionally
 18 attend some of the seminars and you could hear
 19 James Ray talk; correct?
 20 **A. If I -- I mean, I was -- I was there. I**
 21 **didn't necessarily attend. I was working them.**
 22 **Yeah.**
 23 **Q.** Yeah. So you'd go -- you were working as
 24 a JRI employee?
 25 **A. Correct.**

- 1 **Q.** Had your logistics or liaison function;
 2 correct?
 3 **A. Correct.**
 4 **Q.** But you knew James' function was to
 5 speak; correct?
 6 **A. That's correct.**
 7 **Q.** That's what he was good at; correct?
 8 **A. Exactly.**
 9 **Q.** And he was speaking about ideas; correct?
 10 **A. Correct.**
 11 **Q.** Beliefs; correct?
 12 **A. Correct.**
 13 **Q.** Concepts; correct?
 14 **A. Correct.**
 15 **Q.** He was attempting to encourage people to
 16 overcome problems; correct?
 17 **A. Correct.**
 18 **Q.** He was coining phrases like "play full
 19 on"; correct?
 20 **A. Correct.**
 21 **Q.** He was borrowing pieces of various
 22 religions, putting them together in -- in these
 23 presentations that you overheard; correct?
 24 **A. Correct.**
 25 **Q.** So he might talk about Buddhism in one

- 1 setting, Christianity in another; correct?
 2 **A. Correct.**
 3 **Q.** He was talking individually to people, as
 4 you described, sometimes in very emotional
 5 settings; correct?
 6 **A. Correct.**
 7 **Q.** His job was to speak; correct?
 8 **A. Correct.**
 9 **Q.** So when you told this jury on direct that
 10 Marta came up to you and said, let him have his own
 11 experience, in reference to Lou, that was a phrase
 12 that you had heard throughout JRI seminars;
 13 correct?
 14 **A. Correct.**
 15 **Q.** Again, words from Mr. Ray; correct?
 16 **A. I'm sorry?**
 17 **Q.** Words.
 18 **A. Words.**
 19 **Q.** Yeah. And what I'm pointing out,
 20 Ms. Martin, is you never saw James Ray physically
 21 touch anyone to force them to do something against
 22 their will; correct?
 23 **A. No.**
 24 **Q.** Physically. Correct?
 25 **A. Correct.**

1 **Q.** You didn't see him use an instrumentality
 2 like a knife or a gun or a rope or something to
 3 force them to do something against their will;
 4 correct?
 5 **A. Correct.**
 6 **Q.** What you saw or what you heard were words
 7 from James Ray; correct?
 8 **A. Correct.**
 9 **Q.** And then people would react with varying
 10 responses to those words; correct?
 11 **A. Correct.**
 12 **Q.** Some people tried to play full on and not
 13 sleep during Vision Quest; correct?
 14 **A. Correct.**
 15 **Q.** Some people would play full on and decide
 16 to journal and recapitulate; correct?
 17 **A. Correct.**
 18 **Q.** Other folks said, hey, I'm going to go to
 19 sleep; correct?
 20 **A. Correct.**
 21 **Q.** And they were free to do that; right?
 22 **A. Yes.**
 23 **Q.** All right. You told us that you heard
 24 Dennis, and he was yelling or screaming out
 25 something like I don't want to die. I don't want

1 to die. Correct?
 2 **A. Correct.**
 3 **Q.** But you didn't -- he's not one of the
 4 people that you went and helped; correct?
 5 **A. Correct.**
 6 **Q.** What I'd like to talk about now is
 7 perhaps the most difficult part of your experience.
 8 And that is your personal observations of the
 9 people that you actually helped. Okay?
 10 **A. Okay.**
 11 **Q.** So to a certain extent, I apologize in
 12 having to ask you these questions. But in another
 13 regard, this jury is entitled to know the truth.
 14 So I ask you to try to think back, to the best of
 15 your recollection. Okay?
 16 **A. Okay.**
 17 **Q.** Let's start with the first lady that came
 18 out in the first round.
 19 **A. Uh-huh.**
 20 **Q.** Did you know -- were you able to touch
 21 her and determine whether her skin was hot or cold
 22 to touch?
 23 **A. I don't recall.**
 24 **Q.** All right. You told us her statements.
 25 But did you see anything in terms of the saliva or

1 her mouth or anything coming out of her mouth?
 2 **A. No.**
 3 **Q.** You see -- if you had to describe to
 4 someone your observations as to her actual physical
 5 condition, how would you describe her?
 6 **A. She -- she looked pretty good, for the**
 7 **most part, except for just a lot -- a lot of**
 8 **shallow breathing, out of breath.**
 9 **Q.** All right. And let me ask you about that
 10 shallow breathing. So did she appear to have,
 11 then, some difficulty breathing?
 12 **A. No.**
 13 **Q.** Shallow like --
 14 **A. She was just kind of --**
 15 **Q.** Hyperventilating?
 16 **A. Just very slow breathing or shallow.**
 17 **Like I can hear her just kind of gasping a little**
 18 **bit.**
 19 **Q.** Was -- was she sweating?
 20 **A. I don't recall.**
 21 **Q.** Did you happen to see the pupils in her
 22 eyes?
 23 **A. No.**
 24 **Q.** You were taught in first aid to -- to
 25 look at pupils in making preliminary assessments;

1 right?
 2 **A. Very little of that.**
 3 **Q.** Did she complain of any stomach pain?
 4 **A. No.**
 5 **Q.** Okay. Let's get to the next person
 6 that -- that you -- and I want to talk about the
 7 people that you have hands-on -- you know --
 8 hands-on experience that -- that you can answer
 9 some of these questions.
 10 So who is the next person? Is it Lou
 11 Caci when you bandaged his arm?
 12 **A. I -- I'm -- it's going to be really hard**
 13 **for me to go through the names and at what point.**
 14 **I didn't just -- it was just overall things**
 15 **happening so quickly. For me to slow it down and**
 16 **reverse it and try to figure out times and names**
 17 **would be very hard.**
 18 **Q.** Well, let's talk about Lou. Okay?
 19 **A. Okay.**
 20 **Q.** Other than the arm that you helped treat,
 21 how would you describe his physical condition?
 22 **A. He was just -- he seemed emotionally very**
 23 **upset and kind of -- sort of jittery and wild-eyed.**
 24 **Q.** But I'm talking about your observations
 25 as to his physical condition. What -- what about

1 his mouth? Did you see any saliva coming from the
2 mouth? Anything like that?

3 **A. No.**

4 **Q.** Did he complain of any abdominal pain?

5 **A. No.**

6 **Q.** Was he vomiting?

7 **A. Vomiting? No.**

8 **Q.** Any coughing?

9 **A. Not that I recall.**

10 **Q.** Who was the next person that you helped?

11 Was it Sean Ronan?

12 **A. I don't recall working on Sean Ronan**
13 **until the end.**

14 **Q.** Okay. And what did -- what did you
15 recall about his physical condition?

16 **A. He was more disoriented.**

17 **Q.** Disoriented. What else? Had he vomited?

18 **A. I don't know.**

19 **Q.** Anything about his mouth that you can
20 remember?

21 **A. Not that I recall.**

22 **Q.** What about his ability to move his arms
23 and limbs?

24 **A. He was laying down. So I -- I don't**
25 **know.**

1 **Q.** Did you help Sidney?

2 **A. Yes.**

3 **Q.** Describe what you can about her physical
4 condition.

5 **A. She was -- she definitely was breathing**
6 **very low, was not responding, not speaking to me.**

7 **Q.** When you say "breathing low," explain
8 that to us in more detail.

9 **A. She was on her side. She was sort of**
10 **gray in color. And she was going --**

11 **Q.** Did you happen to notice any saliva
12 coming out of her mouth?

13 **A. No. I don't recall.**

14 **Q.** Did you happen to notice any wheezing
15 when she breathed?

16 **A. No.**

17 **Q.** You said she was blue?

18 **A. She was kind of a grayish --**

19 **Q.** Grayish.

20 **A. -- color.**

21 **Q.** What about her skin temperature? Do you
22 recall?

23 **A. Well, when she's brought out, she was**
24 **hosed down immediately. So I -- I don't know the**
25 **skin temperature.**

1 **Q.** Did these people, in your opinion,
2 exhibit signs of confusion?

3 **A. Yes.**

4 **Q.** Anxiety?

5 **A. Yes.**

6 **Q.** Then, of course, we've talked about the
7 first lady, Lou, Sidney. Did you help Sean? I
8 can't remember.

9 **A. Sean Ronan?**

10 **Q.** Yeah.

11 **A. I don't think I -- I helped him as much**
12 **as I tried to make sure he was coherent.**

13 **Q.** But then finally we get to Kirby at the
14 end; correct?

15 **A. Uh-huh.**

16 **Q.** Correct?

17 **A. Kirby was before Sean Ronan.**

18 **Q.** Before Sean?

19 **A. Right.**

20 **Q.** Okay. Kirby was the person that you
21 actually performed CPR on; correct?

22 **A. Correct.**

23 **Q.** And I think you told us you did that, you
24 can't recall how long, but it was a significant
25 time period, in your mind. Correct?

1 **A. I was brought over after she'd been out**
2 **for a little while.**

3 **Q.** And, again, you said that Kirby had
4 vomited; correct?

5 **A. Yeah. She was -- bile or vomit or**
6 **something was coming up out of her mouth. Yes.**

7 **Q.** And the something that was coming out of
8 her mouth -- was it liquid or solid?

9 **A. It was liquidish. Yeah.**

10 **Q.** Did she vomit four times?

11 **A. Probably. Most every time when I would**
12 **pump on her chest and try to get her to breathe or**
13 **give her mouth-to-mouth, her response would be some**
14 **sort of a -- it would come up again, like things**
15 **would come out of her mouth.**

16 **Q.** It was fluid --

17 **A. Yes.**

18 **Q.** -- primarily?

19 All right. Can you describe the color?

20 **A. I don't know. I'd --**

21 **Q.** Would you describe it as foamy?

22 **A. Possibly, yes.**

23 **Q.** Did you notice any blood?

24 **A. No.**

25 **Q.** When were you doing CPR, did you take her

1 heart rate?
 2 **A. Yeah. We couldn't get a pulse on her --**
 3 **Q.** No pulse?
 4 **A. -- that I could find.**
 5 **Q.** Were her eyes opened or closed?
 6 **A. Closed.**
 7 **Q.** Now, you mentioned Sean, that you helped
 8 him; right? And that was after Kirby?
 9 **A. Yeah. But I wouldn't characterize that**
 10 **as helping as much as the others because I just**
 11 **kind of went and dialogued with him.**
 12 **Q.** Okay. And when you were dialoguing with
 13 him, did he appear to be confused?
 14 **A. Yes.**
 15 **Q.** Anxious?
 16 **A. Yes.**
 17 **Q.** Restless?
 18 **A. Yes.**
 19 **Q.** What about any of those other symptoms
 20 we've been talking about?
 21 **A. He was kind of laughing in a weird way**
 22 **and -- but I didn't see any blood or anything like**
 23 **that.**
 24 **Q.** Any saliva? Foaming at the mouth?
 25 Anything?

1 **A. No.**
 2 **Q.** How was his breathing, if you remember?
 3 **A. He seemed all right.**
 4 **Q.** The time in which you were helping Kirby
 5 trying to save her life, you knew that James Ray
 6 was standing near you or above you; correct?
 7 **A. Yes.**
 8 **Q.** Watching; correct?
 9 **A. Correct.**
 10 **Q.** You also knew that Jeanne Armstrong was
 11 there kind of barking out orders; correct?
 12 **A. Yes. She was over there with -- with**
 13 **Shore, James Shore.**
 14 **Q.** Do you recall Dr. Armstrong going back
 15 and forth between Kirby and James Shore providing
 16 instructions to you?
 17 **A. I don't recall her talking to me.**
 18 **Q.** And, of course, this is a -- an extremely
 19 traumatic event, to perform CPR on someone;
 20 correct?
 21 **A. Absolutely.**
 22 **Q.** So stuff -- and you're focused on what
 23 you're doing --
 24 **A. Uh-huh.**
 25 **Q.** -- correct?

1 **A. Yes.**
 2 **Q.** So what else is going on around you is
 3 not your concern. Fair statement?
 4 **A. Correct.**
 5 **Q.** You're trying to save this lady's life;
 6 correct?
 7 **A. Right.**
 8 **Q.** And Kirby. You described her as a happy
 9 person --
 10 **A. Uh-huh.**
 11 **Q.** -- right?
 12 **A. Yes.**
 13 **Q.** She was tough, I think you said.
 14 Correct?
 15 **A. Uh-huh.**
 16 **Q.** In fact, she had driven by herself from
 17 Mexico up to the Sedona area; correct?
 18 **A. Correct.**
 19 **Q.** She was your roommate?
 20 **A. No.**
 21 **Q.** Okay. Who was your roommates?
 22 **A. Well, I wasn't a -- I wasn't a**
 23 **participant. Right?**
 24 **Q.** Right.
 25 **A. I would have been in --**

1 **Q.** Did you get your own room?
 2 **A. Yeah -- no. I had Marta Reis and -- and**
 3 **Taylor Butler with me.**
 4 **Q.** Okay. Thank you.
 5 But you knew Kirby, got to know Kirby
 6 pretty well?
 7 **A. Yeah. Bits and pieces. Yes.**
 8 **Q.** And those attributes of being
 9 strong-willed, independent, tough, capable lady,
 10 you would assign to her personality; correct?
 11 **A. Absolutely.**
 12 **Q.** And so knowing Kirby, knowing of these
 13 attributes, you were entirely focused on trying to
 14 save her life; correct?
 15 **A. Right.**
 16 **Q.** And you don't know whether there was any
 17 conversation between James and Dr. Armstrong;
 18 correct?
 19 **A. I do not.**
 20 **Q.** What you remember is at one point in time
 21 James Ray standing above you; correct?
 22 **A. Correct.**
 23 **Q.** So if Dr. Armstrong testified that she
 24 gave specific instructions to Mr. Ray, you wouldn't
 25 know about that; correct?

1 **A. Correct.**
 2 **Q.** And I think you answered this question.
 3 But on that day in September of 2009, you did not
 4 know Jeanne Armstrong was a doctor; correct?
 5 **A. Yes. In October I did not know who she**
 6 **was.**
 7 **Q.** Do you remember her announcing, I'm a
 8 doctor, something to that effect, if you know?
 9 **A. Not really.**
 10 **MR. KELLY:** Perhaps we can publish
 11 Exhibit 230.
 12 **Q.** This is the event after -- at some point
 13 in time after the arrival of the EMS units;
 14 correct?
 15 **A. Yes.**
 16 **Q.** And can -- I'm going to give you the
 17 actual exhibit.
 18 May I approach, Judge?
 19 **THE COURT:** Yes.
 20 **Q.** BY **MR. KELLY:** Ms. Martin, it's easier
 21 to -- perhaps to take a look at the actual exhibit.
 22 Do you see yourself in that photograph?
 23 **A. No, I do not.**
 24 **Q.** Where do you believe Kirby was located?
 25 **A. I believe she was on the backside of the**

1 **tent where you can't see. Where you see the man**
 2 **with the hat --**
 3 **Q.** Mr. Hamilton?
 4 **A. -- to the left of that. Yeah.**
 5 **Q.** So if you were down --
 6 **A. It would be just out of the picture frame**
 7 **to the left.**
 8 **Q.** Where the --
 9 **A. More where he's looking, where you see**
 10 **he's looking, that would be where I would guess**
 11 **they are, where that little group of people are.**
 12 **Q.** Perhaps we can blow that up and see if
 13 that's you. We can see an EMS -- a couple EMS
 14 workers; right?
 15 **A. Yes.**
 16 **Q.** But your recollection is that's where you
 17 were performing CPR on Kirby; correct?
 18 **A. Right. When the -- when the ambulance**
 19 **came here, I was no longer doing that. They took**
 20 **over everything.**
 21 **Q.** When you did do it --
 22 **A. Yes.**
 23 **Q.** -- it would have been --
 24 **A. It would have been there.**
 25 **Q.** -- this location?

1 **A. Correct.**
 2 **Q.** Then they took over --
 3 **A. Uh-huh.**
 4 **Q.** -- and you left to go back to your room?
 5 **A. I went to go get my car. Yeah. Uh-huh.**
 6 **Grab my things.**
 7 **Q.** And -- perhaps if we could show -- and do
 8 you recognize this as James Ray right here?
 9 **A. Yes.**
 10 **Q.** You mentioned, backing up on the sweat
 11 lodge, there was a point in time in which you and
 12 Ted Mercer's wife lifted up the back of the tent --
 13 **A. Uh-huh.**
 14 **Q.** -- because she thought that a rock was a
 15 head; right?
 16 **A. Right.**
 17 **Q.** And you were going back there to
 18 determine whether that was a human being or not;
 19 right?
 20 **A. Correct.**
 21 **Q.** And when you lifted it up, do you recall
 22 any statements by Mr. Ray?
 23 **A. No.**
 24 **Q.** And once you determined that it was a
 25 rock, you put it back down?

1 **A. Correct.**
 2 **Q.** And, again, Debbie Mercer at that point
 3 in time didn't go tell James Ray, hey, I think
 4 there's a person in the back here; correct?
 5 **A. I don't know what she did.**
 6 **Q.** Well, you know she came to you; correct?
 7 **A. Right. Oh. Right. Uh-huh.**
 8 **Q.** And you and she went to make that
 9 determination; correct?
 10 **A. Correct.**
 11 **Q.** You never saw her lift the flap and tell
 12 James, hey, I think a person is down in the back of
 13 this tent; correct?
 14 **A. Correct.**
 15 **Q.** You were asked some questions about Lisa
 16 and the fact that Lisa was a registered nurse. Do
 17 you recall that?
 18 **A. Yes.**
 19 **Q.** And you believed that was a fairly
 20 well-known fact back in October of 2009 that she
 21 was a nurse; correct?
 22 **A. It was well known when she told us that**
 23 **she was. Yes.**
 24 **Q.** And she actually told JRI that, look, I
 25 want to be on the outside because I'm a nurse?

- 1 A. **Correct.**
 2 Q. One thing is -- going back to Kirby and
 3 your efforts to save her life by CPR, Kirby was
 4 making sounds like you'd never heard before;
 5 correct?
 6 A. **Correct.**
 7 Q. And describe those sounds to us.
 8 A. **It was like --**
 9 Q. Something from her lungs?
 10 A. **I presume.**
 11 Q. Her breath; correct?
 12 A. **Something that she made with her mouth.**
 13 Q. You told us that people would leave their
 14 cell phones back in their rooms; correct?
 15 A. **Yes.**
 16 Q. Did -- did you, in your liaison work with
 17 Angel Valley, know that there was a landline
 18 telephone in the office at Angel Valley?
 19 A. **I would presume there would be. Yes.**
 20 Q. And at no time, Ms. Martin -- I realize
 21 hindsight is 20/20. But at no time from the first
 22 round with the lady in the chair until the EMS
 23 folks relieve you from Kirby Brown did -- did you
 24 go try to call 9-1-1; correct?
 25 A. **That's correct.**

- 1 Q. And you didn't direct anyone else to do
 2 that; correct?
 3 A. **Correct. I talked about it with Amayra.**
 4 Q. Pardon me?
 5 A. **We talked about it. Amayra and I.**
 6 Q. And was that at the end when you were
 7 doing CPR or after CPR? When was that?
 8 A. **Toward the middle. We just had a**
 9 **conversation.**
 10 Q. So you put Amayra on notice that you
 11 believed that 9-1-1 should be called?
 12 A. **No.**
 13 Q. Okay. So what do you mean you talked
 14 about it?
 15 A. **She told me that -- you know -- she had**
 16 **attempted to call 9-1-1 in the past but it**
 17 **wasn't -- you know -- at that point -- you know --**
 18 **she just said she had tried to do that in the past,**
 19 **previous years.**
 20 Q. Did she tell you she was going to go call
 21 9-1-1?
 22 A. **At that point, no.**
 23 Q. Did -- when you were having that
 24 discussion, did she go talk to James Ray?
 25 A. **No.**

- 1 Q. Now after -- after this event you told us
 2 you went to the Verde Valley Medical Center and
 3 then you went to the Flagstaff Medical Center;
 4 correct?
 5 A. **No.**
 6 Q. Okay.
 7 A. **I went to Cottonwood --**
 8 Q. All right.
 9 A. **-- Medical Center and then to Flagstaff.**
 10 Q. Okay. And I think Cottonwood is the
 11 Verde Valley Medical Center. You went to the town
 12 of Cottonwood to a hospital?
 13 A. **Oh. Okay.**
 14 Q. Okay? Correct?
 15 A. **I didn't realize.**
 16 Q. You went to the town of Cottonwood to a
 17 hospital; correct?
 18 A. **Yes.**
 19 Q. And you went to Flagstaff to a hospital?
 20 A. **Right.**
 21 Q. And you, on behalf of -- of JRI, were --
 22 were trying to make contact with these folks;
 23 correct?
 24 A. **Yes.**
 25 Q. And you identified them; correct?

- 1 A. **Yes.**
 2 Q. You're not a medical doctor; correct?
 3 A. **Correct.**
 4 Q. So when you were asked about their
 5 condition at the hospital, you would agree with me
 6 that a doctor would be better suited to provide an
 7 opinion regarding their medical attention?
 8 A. **You mean when I was asked on examination**
 9 **here?**
 10 Q. Yes.
 11 A. **Correct.**
 12 Q. In other words --
 13 A. **Yeah.**
 14 Q. -- kind of put in an uncomfortable
 15 position. Well, how's she doing? She's got a tube
 16 down her throat. I know that.
 17 But if you want to know how she's doing
 18 medically, be better to bring a doctor in; correct?
 19 A. **Absolutely.**
 20 Q. So you were just trying to tell the jury
 21 what your observations were. And if their eyes
 22 were closed, they could either be asleep; correct?
 23 A. **Correct.**
 24 Q. Could be unconscious; correct?
 25 A. **Correct.**

1 Q. Could be medicated; correct?
 2 A. **Correct.**
 3 Q. You don't know; right?
 4 A. **Correct.**
 5 Q. Then I believe we -- you have tried to
 6 the best of your ability to relay to this jury on
 7 cross-examination what you actually saw or heard
 8 during this event; correct?
 9 A. **Correct.**
 10 Q. Without any sensationalism; correct?
 11 A. **Correct.**
 12 Q. Without any exaggeration; correct?
 13 A. **Correct.**
 14 Q. And you may have done that on other
 15 occasions; correct?
 16 A. **I don't know what you're referring to.**
 17 Q. Well, remember yesterday we had our
 18 little fight and there were statements like
 19 M.A.S.H. units and mass suicide and so forth that
 20 may be the result of emotion which is associated
 21 with this very traumatic event? Correct?
 22 A. **Correct. It's very emotional.**
 23 Q. But on cross-examination you have tried
 24 to tell exactly what you remember happening;
 25 correct?

1 A. **Yeah.**
 2 Q. Without that emotion?
 3 A. **I've tried to be as clear and concise as**
 4 **possible without extra.**
 5 Q. Much -- much different setting and
 6 purpose than meeting with ABC News or Dateline or
 7 CNN; correct?
 8 A. **Correct.**
 9 Q. I mean, you would agree with that -- that
 10 media likes to sensationalize things so that they
 11 can get viewers; correct?
 12 A. **Correct.**
 13 Q. And they can even take your statements
 14 and put them in orders and distort the meaning that
 15 you actually intended; correct?
 16 A. **Correct.**
 17 Q. But today on cross-examination and
 18 yesterday afternoon, you're trying to keep it to
 19 what is -- what you actually remember happening?
 20 A. **Correct.**
 21 Q. And you told us you were kind of ambushed
 22 by the media back in Sedona on December 8th. Do
 23 you recall that testimony?
 24 A. **Yes.**
 25 Q. And you said you were there with some

1 other people?
 2 A. **Yes.**
 3 Q. Were you there with Beverly Bunn?
 4 A. **Yes.**
 5 Q. Who else?
 6 A. **Sidney Spencer.**
 7 Q. And you mentioned an attorney. Who was
 8 the attorney that was there?
 9 A. **Sidney Spencer's attorney.**
 10 Q. You got a name?
 11 A. **No.**
 12 Q. Okay.
 13 A. **I have no idea.**
 14 Q. Was Beverly Bunn's attorney there?
 15 A. **The attorney was not there.**
 16 Q. Oh.
 17 A. **No.**
 18 Q. I misunderstood you.
 19 A. **Okay. Would you like me to explain.**
 20 Q. Just you three ladies?
 21 A. **Yes.**
 22 Q. The attorney called and said the press is
 23 coming?
 24 A. **No. The attorney called the press and**
 25 **told the press that we were going to be there,**

1 **unbeknownst to us.**
 2 Q. What was your purpose in being there?
 3 A. **Just to -- to kind of commiserate a**
 4 **little bit, heal -- you know -- try to heal**
 5 **together and just talk to me on my way traveling.**
 6 Q. And, of course, you were still at that
 7 time very -- still, of course. But at that time
 8 that was very recent to the event and you were
 9 emotionally upset; correct?
 10 A. **Uh-huh. Yes.**
 11 Q. Ms. Bunn appeared to be emotionally
 12 upset; correct? Dr. Bunn?
 13 A. **Yes. Yes.**
 14 Q. And you were upset at that time -- in
 15 addition to the trauma that you experienced, you're
 16 also upset because James had not personally called
 17 you; correct?
 18 A. **I was sad that he didn't talk to me after**
 19 **all that.**
 20 Q. But do you recall telling the detective,
 21 I don't care if my boss is Barbara Streisand -- you
 22 know. Man, she better call me if I just saved 15
 23 people so there's only three dead and -- you
 24 know -- not 18?
 25 A. **Yeah.**

1 Q. So you would agree with me that some of
2 these statements were made under some very intense
3 and extreme emotional trauma that you were
4 experiencing; correct?

5 A. I would agree with that.

6 MR. KELLY: May I have just a moment, Judge?

7 THE COURT: Yes.

8 Q. BY MR. KELLY: Thank you, Ms. Martin.

9 Thank you, Judge.

10 THE COURT: Thank you, Mr. Kelly.

11 Ladies and gentlemen, we will go ahead
12 and take the noon recess at this time. Remember
13 the admonition. Please be back in the jury room by
14 1:30.

15 Ms. Martin, you'll be excused for the
16 recess also. Recall that rule of exclusion I
17 discussed with you.

18 Thank you.

19 (Recess.)

20 (Proceedings continued outside presence
21 of jury.)

22 THE COURT: The record will show the presence
23 of the defendant, Mr. Ray, and the attorneys.

24 Mr. Kelly.

25 MR. KELLY: Judge, before Ms. Polk starts her

1 redirect, I'd like to discuss out of the presence
2 of the jury Ms. Martin's response as it relates to
3 Amayra Hamilton telling her that there was a
4 discussion about calling 9-1-1. She's told we did
5 that on past occasions.

6 I realize, Judge, that I'm stuck with
7 that answer. So I'm not asking that the Court do
8 anything at this point. However, that was
9 completely unsolicited. In my mind came out of
10 nowhere. I was simply trying to establish that
11 there may be a landline available in addition to
12 what we heard about cell phone coverage when all of
13 a sudden that statement came out.

14 So I'd ask that it not be inquired into
15 in any more depth in redirect.

16 THE COURT: Ms. Polk.

17 MS. POLK: Your Honor, this is information
18 that the defense has known about. Amayra
19 Hamilton -- in fact, at the 404(b) hearing -- had
20 testified about the -- I believe it's the 2005 --
21 actually, I don't recall.

22 But she had testified that she and
23 Mr. Ray had had a disagreement and that she had
24 actually called 9-1-1 in the past and afterwards
25 that Mr. Ray had yelled at her for doing so. So

1 the information itself is not new to the defense.

2 And Mr. Kelly specifically was
3 questioning this witness about why she didn't call
4 9-1-1, suggesting to the jury that if this witness
5 thought things were so bad, she should have called
6 9-1-1.

7 The answer from this witness was that she
8 did talk to Amayra Hamilton about calling 9-1-1.
9 And the state has the right now to ask this witness
10 what did you learn from Amayra Hamilton? And did
11 that affect your decision whether or not to call
12 9-1-1 in 2009? It's fair redirect.

13 THE COURT: I wish I had the question. I was
14 aware of this issue. I knew it was going to come
15 up. But I -- and I --

16 Can you find that, Mina?

17 Just a minute, Mr. Kelly. I want to view
18 the actual questioning. It should be pretty easy
19 to find.

20 (Record read.)

21 MR. KELLY: Judge, if I may reply. Nowhere in
22 the information provided on behalf of Melinda
23 Martin in her interview or the police reports was
24 this discussion identified. So we had no knowledge
25 that this witness was going to say that.

1 And, again, the discussion was exactly as
2 it indicated on the transcript. Did you go call
3 9-1-1? Were you aware of a landline? Then she
4 volunteered. And I can't exactly parrot the
5 response, the hearsay response, of Amayra Hamilton.

6 So not only, Judge, do we object for all
7 the reasons under 404 and 403 to any additional
8 inquiry into this line of questioning, it is also
9 hearsay. And I can't -- it was unsolicited. I
10 can't object during my cross-examination to the
11 hearsay response of a witness.

12 THE COURT: It just has all those problems.

13 Ms. Polk, there's just so many things,
14 evidentiary things, going on in this case. But go
15 ahead.

16 MS. POLK: Well, Your Honor, several points.
17 First of all, the state agrees that this
18 information was not contained in the departmental
19 reports, the police reports, or the interview.

20 However, again, as with other witnesses,
21 the defense made the strategic decision not to
22 interview this witness. And clearly that's a
23 decision they make. And the opportunity to more
24 fully explore what a witness will have to say is a
25 strategic decision that they have made, and they

1 have made that decision.

2 So to suggest that somehow there's been
3 lack of disclosure that this witness would -- would
4 say it, that was a strategic decision on their
5 part.

6 The information itself was fully made
7 available to the defense. And at the 404(b)
8 hearing with Mrs. Hamilton testified, she testified
9 specifically about having called 9-1-1 on a prior
10 occasion, how she got yelled at. And so that
11 information is -- is known.

12 Secondly, the problem with what Mr. Kelly
13 has done is he has left the jury with the
14 impression that it was Amayra Hamilton's decision
15 not to call 9-1-1 in 2009. And that is simply
16 inaccurate.

17 Mr. Kelly, first of all, solicited the
18 information about suggesting to this witness that
19 she should have called 9-1-1. She responded
20 honestly that she talked about it. And then the
21 question posed by Mr. Kelly to her was, so you put
22 Amayra Hamilton on notice that she should call
23 9-1-1? And the witness answered, no, that they --
24 she talked about it with Amayra. That Amayra said
25 she tried to in the past. And then that's all that

1 came out.

2 So as far as the jury is concerned, the
3 defense has left the jury with the impression that
4 it was Amayra Hamilton that made the decision
5 in 2009 not to call 9-1-1. And so the rest of the
6 story needs to come out.

7 And then Mr. Kelly went on to question
8 the witness that did Amayra Hamilton tell you you
9 should call 9-1-1? And the answer was, no. And
10 did I -- any of you talk to Mr. Ray? And the
11 answer was, no. So there's an incomplete story out
12 there, a misrepresentation that the jury has been
13 left with about why 9-1-1 was not called.

14 It is not hearsay, Your Honor, for two
15 reasons. One is that this information is not being
16 offered to prove the truth of the matter. It is
17 being offered to explain why this witness did not
18 call 9-1-1 and that, specifically the question that
19 Mr. Kelly had posed to her, why didn't you call
20 9-1-1? And this information explains her decision
21 at the moment, her state of mind not to call 9-1-1.

22 And then, secondly, it is information
23 about Amayra's present-tense impression about
24 whether or not should they go ahead and call 9-1-1.
25 So on two fronts it's not even hearsay.

1 But clearly the information is needed to
2 explain to the jury why this witness did not call
3 9-1-1. They've been left with the false impression
4 that it was Amayra Hamilton somehow who makes the
5 decision not to call 9-1-1. And that's completely
6 false.

7 THE COURT: She said she did not put Amayra on
8 notice to call.

9 MS. POLK: But then Mr. Kelly went on to ask
10 questions to suggest to the jury that it stopped
11 with Amayra Hamilton deciding not to call 9-1-1.
12 Mr. Kelly went on to say, did you tell Amayra
13 Hamilton that she should call 9-1-1? The answer
14 was, no. And did either of you talk to Mr. Ray?
15 And the answer was, no.

16 What the jury doesn't know is that on
17 that prior occasion when Amayra called 9-1-1,
18 Mr. Ray yelled at her and said, don't ever do that
19 again. That's the crucial piece of information
20 that the jury does not know that completes the
21 story.

22 THE COURT: What do you anticipate
23 Ms. Martin's testimony will be in this area?

24 MS. POLK: I think it's fair to ask her what
25 did Amayra Hamilton tell you --

1 THE COURT: I'm asking what she's going to
2 say.

3 MS. POLK: I --

4 THE COURT: Do you have -- do you know?
5 Because we're really in an area where we've got
6 Sixth Amendment issues and confrontation issues and
7 those things.

8 So what do you anticipate will be said,
9 Ms. Polk?

10 MS. POLK: I anticipate that she will say that
11 Amayra Hamilton said she -- that she got yelled at
12 for Mr. Ray in the past for calling 9-1-1.

13 I just want to point out, Your Honor, it
14 is Mr. Kelly who asked these questions, these
15 crucial questions, that have opened this door, not
16 the state.

17 MR. KELLY: Judge --

18 MS. POLK: And it was Mr. Kelly, Your Honor,
19 who specifically said to the witness, what do you
20 mean you talked about it?

21 MR. KELLY: Judge, it's almost beyond
22 comprehension that there can be this incredible
23 double standard that somehow I take the state's
24 disclosure, which contains nothing of this
25 conversation, so I'm not aware of it -- that

1 somehow I'm at fault because I didn't conduct a
2 pretrial interview of this witness.

3 And yet if you roll the clock back about
4 four hours ago, somehow there was a purported
5 discovery violation because the government did
6 interview their own witness to find that a workers'
7 comp claim was filed.

8 There are rules of evidence here. And
9 the overriding rule of evidence in this particular
10 issue is that's an unsolicited hearsay response
11 that -- I agree I'm stuck with the answer at this
12 point.

13 But any further inquiry would be
14 improper. It violates the pretrial orders of the
15 Court in regards to 404(b). It's potentially 403
16 information that's highly prejudicial.

17 And the reason I emphasize that, Judge,
18 is there's no connecting it to direct knowledge of
19 Mr. Ray, the person standing trial for
20 manslaughter.

21 So what it's going to do at the end is
22 prejudice -- potentially prejudice the jury. And I
23 believe the court reporter took down the exact --
24 the record speaks for itself as to the questions
25 and the answer. I'm not making a motion to strike

1 that response. We're stuck with it. And -- and
2 the jury -- and it's clear what the response was.
3 But that should be the end of this inquiry at this
4 point.

5 THE COURT: Ms. Polk.

6 MS. POLK: And, Your Honor, there's a
7 fundamental difference between failing to provide
8 the other side with the documents and the papers
9 you intend to use at trial and testimony of a
10 witness.

11 This was not unsolicited information.
12 Mr. Kelly asked the witness, why didn't you call
13 9-1-1? And when she said she talked to Amayra
14 Hamilton, he could have stopped there. But instead
15 he said, what do you mean you talked about it?

16 And then when part of the information
17 came out and Mr. Kelly attempted to do damage
18 control, by then leading the jury to believe that
19 it was Amayra Hamilton's decision in 2009 not to
20 call 9-1-1, specifically saying to the witness that
21 did Amayra Hamilton tell you you should call 9-1-1?
22 And did either one of you talk to Mr. Ray? And
23 then leaving it at that. That's a false
24 impression.

25 That is not what happened. It's not

1 unsolicited information. Mr. Kelly asked about it
2 and then he asked a follow-up question, what do you
3 mean you talked about it?

4 THE COURT: Is Amayra Hamilton expected to
5 testify?

6 MS. POLK: Yes.

7 THE COURT: There's an -- an explanation is
8 warranted, but it could just kind of go into
9 that -- that whole incident that was discussed at
10 some length at the 404(b) hearing. Although I
11 don't know that that incident in itself is strictly
12 404(b). But in this context it is -- it's just
13 hearsay. There'd have to be that limiting
14 instruction again. And it just doesn't warrant
15 anything more than a very brief statement.

16 As a matter of fact, I wanted to know
17 what the anticipated testimony is because that's
18 the kind of -- of point that should just be made
19 with a leading question and move on, not open up
20 all of that and get into all of that other
21 incident.

22 So -- then again, I don't think you know,
23 Ms. Polk, what -- how that's going to turn out. So
24 it's going to be just another -- no one's really
25 interviewed on this point. I guess neither side

1 has interviewed on this point. So it's just going
2 to be asked, and who knows what happens. That's
3 not a good situation. Risks a mistrial.

4 MS. POLK: Your Honor, I'll take a moment to
5 find out what the witness is going to say. What
6 she said to Mr. Kelly is that it -- it sounds like
7 it was a quick conversation. My belief is that the
8 witness is simply going to say that Amayra said she
9 got yelled at in the past for calling 9-1-1 -- she
10 got yelled at in the past by Mr. Ray for calling
11 9-1-1.

12 MR. KELLY: Judge, I -- I don't know. The
13 record in this trial speaks for itself. And -- and
14 words like "mistrial" and "reversible error" and
15 "special action" go through the defense team every
16 day because of this. Why?

17 If you're going to call Amayra Hamilton,
18 why do you have to solicit hearsay information from
19 a witness? Why would you have to do that?

20 THE COURT: The point was discussed. The --
21 should the -- the witness was given an opportunity
22 and did explain. It really just would open up a
23 whole other area of -- even into a redirect
24 situation.

25 So with this witness, no. We're not

1 going back in there. We're just not. I'm not
 2 going to permit that.
 3 Recess.
 4 (Recess.)
 5 (Proceedings continued in the presence of
 6 jury.)

7 THE COURT: The record will show the presence
 8 of the defendant, Mr. Ray; the attorneys, the jury.
 9 And Ms. Martin is on the witness stand.

10 Ms. Polk, you may redirect.

11 MS. POLK: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. POLK:

14 Q. Good afternoon, Ms. Martin.

15 A. Good afternoon.

16 Q. Mr. Kelly ended his cross-examination
 17 with you about questions about whether or not on
 18 cross-examination you had exaggerated. Did you
 19 exaggerate during this -- your examination with the
 20 state?

21 A. No.

22 Q. And you recall questions from Mr. Kelly
 23 specifically about the injuries that you saw to Lou
 24 Caci?

25 A. Yes.

1 Q. And Mr. Kelly put up on the overhead some
 2 medical records. Do you recall that?

3 A. Yes.

4 Q. And in questioning your knowledge about
 5 whether or not Lou had injuries to his knees,
 6 Mr. Kelly had put up on the overhead Exhibit 175,
 7 which is the record from the Verde Valley Medical
 8 Center pertaining to Lou Caci.

9 Do you recall that?

10 A. Yes.

11 Q. I'm going to put up page 2 of the record
 12 to -- he had -- to show you part of this record
 13 that Mr. Kelly did not show you.

14 Do you see under extremities --

15 A. Yes.

16 Q. I'm going to see if I can use my pen to
 17 direct your attention. There is a sentence: He
 18 does appear to have been on his knees for some
 19 period of time, as they are both ruddy but they are
 20 nontender to palpation. And there does not appear
 21 to be any overlying skin abrasion.

22 Will you just tell the jury what you saw
 23 with respect to Lou's knees.

24 A. I'm not sure. I mean --

25 Q. Would you call your testimony that you

1 saw an injury to Lou's arm?

2 A. Yes. Definitely on his arm.

3 Q. And then you had some testimony regarding
 4 Lou's knees or his legs. Do you recall that?

5 A. I remember him -- like, something being
 6 read about his knees, so on. But I treated his
 7 arm.

8 Q. Did you ever treat his knees?

9 A. No.

10 Q. I'm going to show you exhibit -- first of
 11 all, Exhibit 567. Can you tell the jury what that
 12 is, if you know.

13 A. It looks as the -- the sign going into
 14 James' office at JRI.

15 Q. Mr. Ray's office?

16 A. Correct.

17 Q. And then you identified exhibits 573,
 18 572, and 574. And I'm going to see if I can put
 19 them up in the order.

20 First of all, this appears to be the
 21 bottom of a frame. Is that correct?

22 A. Yes.

23 Q. And then 573. What is that?

24 A. Those are business cards from James'
 25 people.

1 Q. But is this all in a framed --

2 A. Yes.

3 Q. -- presentation?

4 A. Yes.

5 Q. And then 572. Would that be the top of
 6 the frame?

7 A. Yes.

8 Q. So describe for the jury what this is
 9 that we're seeing in the picture.

10 A. It's like having really famous people
 11 having cards. It's almost like saying Henry --

12 MR. KELLY: Your Honor, objection to the
 13 speculation portion.

14 THE COURT: Sustained.

15 Q. BY MS. POLK: Are all of these cards in
 16 one frame?

17 A. Yes, they are.

18 Q. And tell the jury how large the frame is.

19 A. It's quite large. Maybe two and a half
 20 feet by one foot.

21 Q. What sort of frame is it?

22 A. Sort of modern, black, as I recall.

23 Q. Do you know where the cards came from
 24 that are in this frame?

25 A. I don't know where he got them. But I

1 see who the cards are, like, who's supposed to have
2 had these cards.

3 Q. And, for example, the top one says J.
4 Paul Getty?

5 A. Correct.

6 Q. The second one is John Rockefeller?

7 A. Correct.

8 Q. Now, these are not business cards of
9 clients who came to see Mr. Ray at JRI, are they?

10 A. No.

11 Q. And through Mr. Kelly's testimony with
12 you he asked you --

13 MR. KELLY: Your Honor, objection to the form
14 of the question. I didn't testify.

15 Q. BY MS. POLK: I can rephrase it, Your
16 Honor.

17 THE COURT: Thank you.

18 Q. BY MS. POLK: Through Mr. Kelly's
19 cross-examination of you, he drew on the easel
20 that's now over to the side of the room, asked you
21 questions about James Ray International, the
22 company. Do you recall that?

23 A. Yes.

24 Q. He asked you, are there 27 people that
25 work there? Do you know, in fact -- for a fact how

1 many people work at James Ray International?

2 A. No, I do not.

3 Q. And, in fact, the number of names that
4 actually ended up on the easel would not be 27?

5 A. That's correct.

6 Q. Do you know how many people work at James
7 Ray International?

8 A. I don't recall.

9 Q. Can you think of anybody that Mr. Kelly
10 didn't ask you about?

11 A. There are a couple people that aren't on
12 there. I'm -- definitely a couple people that were
13 not on there. And several people had left just
14 recently too.

15 Q. Okay. Are there salespeople that work at
16 James Ray International?

17 A. Salespeople?

18 Q. Yes.

19 A. No.

20 Q. And in terms of selling the various
21 events, how was that accomplished?

22 A. That was accomplished at the event
23 itself.

24 Q. By whom?

25 A. James Ray mostly in the front. And then

1 in the back of the room there would be a table set
2 up. And things would be sold there, as well.

3 Q. And what do you mean James Ray in the
4 front?

5 A. He would talk about the events that were
6 coming up and what the people could sign up for to
7 go on continuing the journey.

8 Q. And people could purchase right then and
9 there?

10 A. Correct.

11 Q. You were asked by Mr. Kelly if you knew
12 that -- or if you agreed that Mr. Ray did 21 events
13 a month. Do you recall that question?

14 A. Right. He asked me. I didn't know.

15 Q. During the time that were you there, were
16 you aware of when Mr. Ray was out doing his
17 seminars?

18 A. No.

19 Q. And as event coordinator, what events did
20 you coordinate?

21 A. I just coordinated the very big ones, the
22 ones that were paid events.

23 Q. Were there events that Mr. Ray did that
24 were not paid events?

25 A. Yes.

1 Q. And tell the jury what those were.

2 A. Those were two-hour events that he did
3 often to promote the larger events.

4 Q. To sell the larger events?

5 A. Correct.

6 Q. And do you have any idea how often
7 Mr. Ray did his two-hour events?

8 A. No, I do not.

9 Q. And were those at a charge?

10 A. No. It was free to participate -- to
11 participants.

12 Q. And then going back to the easel and the
13 drawing that Mr. Kelly created, it says at the very
14 top, JRI. And then there's a line down and it
15 says, James. Do you recall that?

16 A. Yes.

17 Q. Is there anybody above Mr. Ray at James
18 Ray International?

19 A. Not that I'm aware of.

20 Q. Who is JRI?

21 A. James Ray International.

22 Q. And does Mr. Ray have any partners that
23 you're aware of?

24 A. Not that I'm aware of.

25 Q. So is it fair to say that James Ray is

1 JRI?

2 MR. KELLY: Your Honor. Objection.

3 THE COURT: Sustained.

4 Q. BY MS. POLK: Did you ever meet anybody
5 that Mr. Ray himself answers to at James Ray
6 International?

7 A. **No, I did not.**

8 Q. And do you know if Mr. Ray answers to
9 anybody else at James Ray International?

10 A. **No, I do not.**

11 Q. And then Mr. Kelly drew lines out for
12 Taylor Butler. Do you see -- can you see the easel
13 from there?

14 A. **Yes.**

15 Q. Did Taylor Butler answer to Megan
16 Fredrickson?

17 A. **Yes.**

18 Q. So that line showing Taylor Butler
19 answering to James would not be accurate?

20 A. **Right.**

21 Q. Because Taylor Butler answers to Megan?

22 A. **Yes.**

23 Q. And the same question for someone named
24 Amy. Did she answer -- who did she answer to?

25 A. **I believe she answered to Megan as well.**

1 Q. So this would also not be accurate to
2 have this line going straight to James?

3 A. **Correct.**

4 Q. And then there's a break with an arrow
5 going to James. Is that accurate?

6 A. **This would require explanation. May I
7 explain?**

8 Q. Yes. Please.

9 A. **The reason why sometimes I didn't know if
10 James -- if they answered directly to James or to
11 Megan, because sometimes they would have a group
12 and they would go to James and see him and then
13 they would work together.**

14 **So I didn't know -- let's say Greg Hartle
15 or Megan or Josh, the group that would travel to
16 Beverly Hills often to see James. If they were
17 reporting directly to him or -- you know -- if they
18 were still reporting to Megan when they were with
19 James. I wasn't sure.**

20 Q. Who did Megan report to?

21 A. **James.**

22 Q. Did everybody at James Ray International
23 report to Megan, to your knowledge?

24 A. **That's what it seemed.**

25 Q. And ultimately, who made decisions at

1 James Ray International?

2 MR. KELLY: Your Honor, objection. Lack of
3 foundation.

4 THE COURT: Sustained as to foundation.

5 Q. BY MS. POLK: Ms. Martin, do you know
6 ultimately who made the decisions at James Ray
7 International?

8 MR. KELLY: Your Honor, same objection.

9 THE COURT: Well, the question is does she
10 know. She -- she may answer that.

11 MR. KELLY: Judge, object to the form of the
12 question.

13 THE COURT: And it's calling for a yes or no
14 response. If this witness is capable of doing
15 that, she can.

16 THE WITNESS: Can you rephrase it or ask
17 again, please.

18 Q. BY MS. POLK: Do you know who ultimately
19 at James Ray International made the decisions?

20 MR. KELLY: Your Honor, I'd object. It's
21 vague. We don't even know what decisions. Cutting
22 up oranges or scheduling?

23 THE COURT: In that sense -- still, if the
24 question is something that you can understand,
25 ma'am, and you can answer it yes or no, you may do

1 that in that fashion.

2 THE WITNESS: Yes, I do.

3 Q. BY MS. POLK: And who is that?

4 A. **James.**

5 MR. KELLY: Your Honor, objection.

6 THE COURT: Sustained.

7 MS. POLK: Your Honor, she's laid the
8 foundation that she knows.

9 THE COURT: I don't know the basis of that
10 exactly other than that assertion. And Mr. Kelly
11 has pointed out there are a number of different
12 kinds of decisions that can be made.

13 Sustained. That answer is stricken.

14 Q. BY MS. POLK: What is your basis for your
15 knowledge as to who it is at James Ray
16 International who ultimately made the decisions?

17 A. **Megan often referred to having to talk
18 with James about things.**

19 Q. And you testified in response to a
20 question from Mr. Kelly about who you answered to.
21 You said initially you answered to Megan but that
22 that changed. Will you explain that.

23 A. **I'll explain. I always answered to
24 Megan. But when I first started there, she tried
25 to set a precedent that anything having to do with**

1 James I would go through her. Like, if -- if
2 anything even going to the water he drinks, I would
3 have to go through her.

4 But as I started to work there, it -- it
5 became where I would talk with James and not have
6 to talk to Megan about what kind of water does
7 James like. I can -- at one point I could say,
8 what type of water do you like?

9 She started off that way, but it became a
10 little bit looser once I started working there.

11 Q. And did Mr. Ray himself directly
12 communicate to you on occasion?

13 A. On occasion, yes.

14 Q. And explain that to the jury.

15 A. He would ask me to -- you know -- to come
16 and talk about the rooms, the setup, how many
17 people had left during the break, how many empty
18 seats there were, the room temperature, about his
19 meals. He'd talk to me about the green room.
20 Different things like that.

21 Q. So those sorts of details Mr. Ray himself
22 would talk to you directly about?

23 A. Yes.

24 Q. You made some -- in response to some
25 questions from Mr. Kelly, you talked about vendors

1 and you talked about staging. Do you recall that?

2 A. Yes.

3 Q. Can you tell the jury what events were
4 staged or what you mean when you use the word
5 "staging."

6 A. Most of the events I did had a stage. We
7 built a stage. And that would have been through
8 the hotel. But -- we hired an outside vendor,
9 Michael, who would come in and work the lighting,
10 he would -- you know -- plug everything into the --
11 to the system so we had the screens up on stage.
12 He would set the whole stage up as far as the
13 technologically, like audiovisual, that type of
14 thing.

15 Q. And did Mr. Ray get involved in those
16 details?

17 A. I don't think so. I don't know.

18 Q. There was some questions about the Dream
19 Team members and the events immediately preceding
20 Mr. Ray's sweat lodge ceremony on October 8th
21 of 2009. Who was present when it was determined
22 what Dream Team members would be outside?

23 A. I don't recall.

24 Q. Do you recall if Mr. Ray himself was
25 there?

1 A. I do not recall. I wasn't there at that
2 moment.

3 Q. You were not there. When did you join?

4 A. I was mostly in the Angel Valley -- I was
5 in their office working on participants who had
6 registered or not registered. So I was in and out.
7 So I'm not sure who was present at that meeting.

8 Q. When did you learn that Lisa Rondan was a
9 nurse?

10 A. One of the times I had gone down there,
11 I -- I was part of that conversation when that
12 happened. I wasn't there for the whole thing.

13 Q. And do you recall who else was there when
14 you first learned that Lisa Rondan was a nurse?

15 A. No.

16 Q. What day was it that you first learned
17 that Lisa Rondan was a nurse?

18 A. I don't recall.

19 Q. Was it the day of the sweat lodge itself?

20 MR. KELLY: Your Honor, objection. She
21 doesn't recall.

22 THE COURT: Sustained.

23 Q. BY MS. POLK: I'm going to give you the
24 syntax, marked as Exhibit 253. You were asked a
25 question by Mr. Kelly: When did Mr. Ray arrive at

1 Angel Valley for the Spiritual Warrior 2009 event?
2 Do you recall that?

3 A. Yes.

4 Q. And at the time you said you did not
5 remember?

6 A. Right.

7 Q. Would you take a moment and look at the
8 syntax and see if that refreshes your recollection.

9 MR. KELLY: Your Honor, objection. The
10 exhibit speaks for itself. This witness's personal
11 knowledge is what she can testify to.

12 THE COURT: It would have to be a situation
13 where the recollection is really refreshed rather
14 than just parroting.

15 So if there's foundation of the fact
16 there's a refreshed recollection, then I would --
17 I'd permit this, Ms. Polk.

18 MS. POLK: Yes.

19 Q. Looking at that syntax, does that refresh
20 your recollection?

21 A. Yes. And I know where he was prior to
22 going here because I set him up on a breakfast and
23 a hike prior to him coming to Angel Valley.

24 Q. That was one of your duties?

25 A. Yes.

1 Q. And you -- tell the jury what -- what
2 events you set Mr. Ray up for prior to Spiritual
3 Warrior 2009.

4 MR. KELLY: Your Honor, objection. Beyond the
5 scope.

6 THE COURT: Overruled.

7 You may answer that.

8 THE WITNESS: He was at the Enchantment
9 Resort. And I had coordinated the World Wealth
10 Society members, for them to come into Sedona and
11 have a breakfast with him at the Enchantment Resort
12 and do a half-day hike.

13 Q. BY MS. POLK: Do you recall what day the
14 breakfast and hike was?

15 A. **It was within the one or two days prior**
16 **to his arrival at Angel Valley.**

17 Q. And in looking at the syntax, does that
18 refresh your recollection as to when Mr. Ray
19 arrived at Angel Valley?

20 A. **It would seem that he arrived on**
21 **Saturday, October the 3rd.**

22 MR. KELLY: Your Honor, objection. Request
23 that the answer be stricken.

24 THE COURT: Sustained. Observing it appeared
25 to be just reading off the exhibit. Sustained.

1 MS. POLK: Thank you.

2 Q. I'm going to put the exhibit up on the
3 overhead, which is Exhibit 253. And look at the
4 page that's -- see it says, Friday,
5 October 2nd, 2009, pre-event?

6 MR. KELLY: Your Honor, objection. There's no
7 question in front of the witness.

8 MS. POLK: I'm just directing her attention to
9 the date, Your Honor.

10 THE COURT: You may proceed, Ms. Polk.

11 MR. KELLY: She's publishing an exhibit for
12 the record, Judge.

13 Q. BY MS. POLK: And if I can direct your
14 attention to the line that says, 7:00 p.m., dinner,
15 James and Dream Team. Do you see that for Friday,
16 October --

17 A. **Yes. I was actually looking at when the**
18 **participants arrived. So this would be when James**
19 **was connected with the Dream Team.**

20 Q. Did you have dinner with James and the
21 Dream Team on Friday night, October 2nd?

22 A. **I didn't.**

23 Q. And then you were asked questions from
24 Mr. Kelly about what training Mr. Ray himself did
25 in terms of training the Dream Team members.

1 Do you recall that question?

2 A. **Yes.**

3 Q. And in looking at the exhibit that's on
4 the overhead, on Friday at 2:30 --

5 MR. KELLY: Your Honor, objection to the form
6 of the question and the improper use of this
7 exhibit to refresh one's recollection.

8 MS. POLK: Your Honor, I'm not refreshing her
9 recollection.

10 THE COURT: You may proceed, Ms. Polk.

11 MS. POLK: Thank you.

12 Q. Friday, 2:30 -- actually, it looks like
13 there's a 4:00 and then there's a 3:30. 1.5 hours,
14 James training with Dream Team, collapsing the wave
15 function.

16 Were you there for that training?

17 A. **I was not.**

18 Q. Do you know if Mr. Ray was there for that
19 training?

20 MR. KELLY: Your Honor, objection.

21 THE COURT: Overruled.

22 You may answer that if you can.

23 THE WITNESS: I do not know if he was there.

24 Q. BY MS. POLK: The -- let's talk about the
25 events of the week and what Mr. Ray did as opposed

1 to other members from James Ray International or
2 the Dream Team members.

3 Do you know, and this is just do you
4 know, to what extent, if any, Mr. Ray supervised
5 the events of the week?

6 MR. KELLY: Your Honor, excuse me. I'd ask
7 that the exhibit not be published before the
8 question.

9 MS. POLK: I'll take it off, Your Honor.

10 THE COURT: Okay.

11 There's a question pending, then. You
12 may answer.

13 THE WITNESS: I'm not sure to what extent he
14 supervised the activities.

15 Q. BY MS. POLK: Who was it who was the
16 person delivering the lectures for the week?

17 A. **James Ray.**

18 Q. And who was it who was the person who had
19 interaction with participants when participants
20 took the microphone and said things?

21 A. **James Ray.**

22 Q. Who was it who told the participants the
23 rules of the Samurai Game?

24 A. **James Ray.**

25 Q. Who was it who told the participants the

1 rules of the Vision Quest?
 2 MR. KELLY: Your Honor, these are a series of
 3 leading questions.
 4 THE COURT: Overruled.
 5 You may answer that.
 6 THE WITNESS: James Ray.
 7 Q. BY MS. POLK: You were asked some
 8 questions about the construction of the sweat
 9 lodge, the structure itself. Were you present when
 10 it was constructed?
 11 A. No.
 12 Q. Do you know if Mr. Ray was present?
 13 A. No.
 14 Q. Do you know if Mr. Ray had any
 15 conversations with the Hamiltons about the
 16 specifications for the sweat lodge?
 17 MR. KELLY: Your Honor, objection. Lack of
 18 foundation.
 19 THE COURT: If she knows.
 20 Again, Ms. Martin, if you can answer that
 21 yes or no, you may do that.
 22 THE WITNESS: The question is do I know?
 23 Q. BY MS. POLK: Yes.
 24 A. **I do not know.**
 25 Q. And do you know whether Mr. Ray made any

1 comment to the participants about his supervision
 2 of the sweat lodge structure itself?
 3 MR. KELLY: Your Honor, objection.
 4 Q. BY MS. POLK: This is do you know?
 5 THE COURT: You may answer that if you can.
 6 THE WITNESS: I do not know.
 7 Q. BY MS. POLK: Who was it who ran the
 8 sweat lodge ceremony?
 9 A. **James Ray.**
 10 Q. Who was it who determined when the sweat
 11 lodge ceremony began?
 12 A. **James Ray.**
 13 Q. Who was it who called for the number of
 14 rocks for each round of the sweat lodge ceremony?
 15 A. **James Ray.**
 16 Q. And who was it who determined how much
 17 water to pour on the rocks for the sweat lodge
 18 ceremony?
 19 A. **James Ray.**
 20 Q. Who was it who determined how long each
 21 round would last?
 22 A. **James Ray.**
 23 Q. And who was it who determined how long
 24 the door would be open between rounds?
 25 A. **James Ray.**

1 Q. Who was it who determined when to end the
 2 sweat lodge ceremony?
 3 A. **James Ray.**
 4 Q. And when it was over, who was it,
 5 Ms. Martin, who was tending to people who appeared
 6 to be suffering?
 7 MR. KELLY: Objection, Your Honor.
 8 THE COURT: Overruled.
 9 You may answer that.
 10 THE WITNESS: Who was helping people?
 11 Q. BY MS. POLK: Yes.
 12 A. **A lot of people were helping at that**
 13 **time.**
 14 Q. Including you?
 15 A. **Including me.**
 16 Q. And how busy were you?
 17 A. **Incredibly busy.**
 18 Q. Did you observe Mr. Ray during the time
 19 that were you incredibly busy and taking care of
 20 people who had been in his sweat lodge?
 21 A. **I did not observe him taking care of**
 22 **people. No.**
 23 Q. Mr. Kelly asked you whether you had ever
 24 had a conversation with Mr. Ray other than
 25 concerning your role in the wine-drinking party.

1 Do you recall that?
 2 A. **Yes.**
 3 Q. And your answer was that you never had
 4 any other conversations with him that week?
 5 A. **Not that I can recall.**
 6 Q. When Mr. Ray came out of the sweat lodge
 7 at the end of his ceremony, did you have a
 8 conversation with him then?
 9 A. **No.**
 10 Q. Did you say something to him then?
 11 A. **No. I said to them -- the four of them**
 12 **as they came out in general.**
 13 Q. And what did you say?
 14 A. **I said, how can you come out of there**
 15 **looking so great when everybody else seems to be**
 16 **suffering so much. Something like that.**
 17 Q. I want to put up on the overhead
 18 Exhibit 145 and have you tell the jury who this
 19 woman is right here.
 20 A. **I believe that's Mr. Mercer's wife.**
 21 Q. And you testified that you and she -- you
 22 had some involvement with Mrs. Mercer surrounding
 23 the sweat lodge ceremony?
 24 A. **Yes.**
 25 Q. Tell the jury, if you know, where is she

1 posted at the moment in this picture.

2 **A. She's in front of the door.**

3 **Q.** Do you know what Mrs. Mercer's position
4 was throughout the sweat lodge ceremony?

5 **A. No.**

6 **Q.** Tell the jury, if you know, where
7 Mr. Ray's position was with respect to what we see
8 in the photograph?

9 **A. Inside the door to the right.**

10 **Q.** And are you able to estimate how many
11 feet Mrs. Mercer would be or is from Mr. Ray in
12 this photograph?

13 **A. Probably a foot and a half, two feet.**

14 **Q.** You were asked questions about Dennis and
15 your concern about Dennis going back into the sweat
16 lodge and Marta Reis saying, let him have his own
17 experience -- or perhaps I stand corrected. That
18 might have been with regard to Lou?

19 **A. Lou. Yes.**

20 **Q.** Mr. Kelly clarified that it was Marta
21 Reis who said to you, let him have his own
22 experience. Do you recall that?

23 **A. Yes.**

24 **Q.** Have you heard that phrase, let them have
25 their own experience, from Mr. Ray?

1 **A. Yes.**

2 **Q.** And on how many occasions?

3 **A. At many events. That was something that**
4 **was said.**

5 **Q.** And when you had that concern about Lou
6 Caci going back in, why didn't you tell Mr. Ray Lou
7 was not in a condition to go back in?

8 **A. Because it wouldn't have been proper**
9 **protocol for me to disrupt the ceremony and talk to**
10 **James Ray about that.**

11 **Q.** Why do you say that?

12 **A. Because there was a real formality**
13 **involved with those events. You didn't disrupt**
14 **what was going on for something like that.**

15 **Q.** Whose direction was that that you not
16 disrupt what was going on?

17 **A. It was just known. I mean, I guess you**
18 **could say Megan. But I mean, it was just known**
19 **that you didn't disrupt the event for something --**
20 **you know -- to go and talk to him, especially when**
21 **he's leading all the people. It just wouldn't have**
22 **been appropriate.**

23 **Q.** You were asked some questions about the
24 people coming out of the sweat lodge and what
25 assistance you offered and whether or not they were

1 cooled down. With respect to the training that the

2 Dream Team members were provided surrounding the
3 sweat lodge ceremony, what were they told to do?

4 **A. The Dream Team members were told to hose**
5 **people down, to cool them off, and offer them some**
6 **water or electrolyte water, refreshments.**

7 **Q.** Were you able to observe whether or not
8 the Dream Team members were acting accordingly and
9 cooling or hosing people down?

10 **A. Yes, they were.**

11 **Q.** You were asked some questions about some
12 interviews you did with the media and some things
13 that you said. Apparently you described -- did you
14 describe the scene as a M.A.S.H. unit at some
15 point?

16 **A. Yes. M.A.S.H. unit.**

17 **Q.** When did you say that?

18 **A. In one of my interviews.**

19 **Q.** And is that an accurate description of
20 what you saw on October 8th, 2009, surrounding
21 Mr. Ray's sweat lodge ceremony?

22 **A. It -- it looked like that.**

23 **Q.** How many paramedics did you have
24 conversations with when emergency responders
25 arrived on October 8th after the conclusion of

1 Mr. Ray's ceremony?

2 **A. Several. They were just shouting**
3 **questions at me from directions.**

4 **Q.** Mr. Kelly specifically questioned you
5 about the use of the words "mass suicide." Did you
6 ever say that?

7 **A. Yes.**

8 **Q.** And in what context?

9 **A. It is true that one of the other**
10 **emergency responders said to me as we were running**
11 **back toward the area, was this a mass suicide?**

12 **Q.** And let's explain that to the jury.
13 Because my question is, on October 8 did you say
14 this is a mass suicide? On October 8?

15 **A. I did not tell anybody that it was a mass**
16 **suicide. Somebody asked me if it was a mass**
17 **suicide, because when they arrived there were just**
18 **people laying all over the ground.**

19 **Q.** And when was it that you repeated the
20 words "mass suicide"?

21 **A. When somebody asked me what had happened**
22 **and I was recounting one of my memories.**

23 **Q.** And what do you recall saying when you
24 were recounting the memory?

25 **A. That one of the ambulance drivers asked**

1 me if this is a mass suicide. And I said, no. It
2 was a sweat lodge gone wrong.

3 Q. Let's talk about what happened after you
4 left the hospital. First of all, tell the jury how
5 many days you were at the Flagstaff Hospital.

6 A. I arrived -- two. Basically, two days.

7 Q. What days?

8 A. The night that we drove there after
9 everybody was flown in by helicopter. I was there
10 all night then and then the next day as well.

11 Q. And during that time did you cooperate
12 with -- were you contacted by law enforcement?

13 A. I made sure that law enforcement knew
14 where I was in case they needed to contact me or
15 they wanted to interview me before I left. I
16 wanted to make sure because everyone else was sort
17 of on lock down at Angel Valley. And I was only up
18 there. I wanted to make sure they knew where I
19 was.

20 Q. Okay. And ultimately you did talk to
21 somebody from the Yavapai County Sheriff's Office?

22 A. I did.

23 Q. Did you also cooperate with the hospital
24 in terms of helping to identify who the
25 participants were that were at the hospital?

1 A. Yes, I did.

2 Q. What day was it that you then left the
3 hospital?

4 A. I left the afternoon of the day after.

5 Q. Where did you go?

6 A. I went back to Angel Valley.

7 Q. And how long were you there?

8 A. Angel Valley?

9 Q. Yes.

10 A. Just got my things together and left.

11 Q. And then where did you go?

12 A. I drove down to Phoenix and flew out to
13 San Diego.

14 Q. Did you go back to James Ray
15 International?

16 A. I did not.

17 Q. Why not?

18 A. I didn't want to go there. It was too
19 upsetting.

20 Q. What did you do instead?

21 A. I started making plans for my next thing,
22 which would be -- you know -- subletted my
23 apartment and tried to get out of my lease and put
24 things in storage and -- and devised my new plan
25 for my new life. Because I had a crossroads in

1 which I had to start over again.

2 Q. Did you let somebody at James Ray
3 International know that you were not coming back?

4 A. Yes.

5 Q. Who did you let know?

6 A. Megan.

7 Q. Did you have property to return to James
8 Ray International?

9 A. Yes.

10 Q. Did it get returned?

11 A. It did.

12 Q. How?

13 A. I had somebody return it for me.

14 Q. I'm going to talk about Exhibit 785,
15 which is the workers' comp claim form. When was
16 it -- I'm going to put it up on the overhead. When
17 was it -- or how did you come to be involved in a
18 claim form? Explain to the jury.

19 A. Megan sort of put together a group of
20 papers, and this was part of it. It was part of
21 her wrapping up of the situation.

22 Q. Did Megan talk to you about filing this
23 claim with workers' comp?

24 A. Yes, she did.

25 Q. Do you recall what she told you about

1 that?

2 A. She said, you're entitled to workers'
3 comp. You just have to sign this and send it in
4 type of thing.

5 Q. What were your thoughts at that time?

6 A. At that time I thought, I guess --
7 I'll -- I'll do it -- you know.

8 Q. And the exhibit that's on the overhead is
9 dated -- it says, claim form was provided to
10 employee on October 26th, 2009.

11 Did I read that correctly?

12 A. Yes.

13 Q. How did Megan get this claim form to you?

14 A. She -- I believe she sent it to me in the
15 mail.

16 Q. What did you do with it?

17 A. I signed it. I don't recall if I mailed
18 it or what I did.

19 Q. Do you know the date that you signed it?

20 A. Well, according to that it was
21 October 29.

22 Q. Okay. And at some point did you change
23 your mind about making a workers' comp claim?

24 A. I did. I just -- I wanted to move on
25 with my life. I didn't feel like dealing with it.

1 In fact, I stopped communicating with anybody in
2 the office and I just moved and started my new life
3 and didn't want to deal with that.

4 Q. Did you let James Ray International know
5 that you did not want to pursue the workers' comp
6 claim?

7 A. I let the workers' comp people know that.
8 I spoke with them. But I -- I believe by that time
9 James Ray International was no longer, so I didn't
10 know that there would be -- or I didn't try to
11 contact them again.

12 Q. And did you ever collect any benefits
13 from workers' comp?

14 A. I did not.

15 Q. You've spoken several times now,
16 Ms. Martin, about the impact on you in response to
17 questions from Mr. Kelly.

18 A. Yes.

19 Q. Will you describe for the jury how your
20 contact with this sweat lodge ceremony, how it
21 impacted you.

22 A. When I came back I just -- I felt like I
23 was in a fog for many, many days. I was so hurt
24 and so sad about what happened to Kirby and James
25 and Liz a week later. I just -- immediately I just

1 couldn't stand the idea of going back and starting
2 up another show and moving forward.

3 And I just -- there was no way I was
4 going to be able to keep working with James Ray
5 International and continue doing events when this
6 was going on. It impacted me very, very much to
7 the point where I didn't want to rehash all these
8 things and -- you know -- I just wanted to try to
9 get over it. It was very, very painful.

10 But I did -- felt it was important to me
11 to see Kirby's family and reach out to Liz Neuman's
12 family because I had a real connection with those
13 ladies. And so part of my healing was to contact
14 them and spend some time with their families and
15 try to do what I could to offer them any sort of
16 comfort that I could and letting them know about
17 their last -- the last times that I was with them.

18 MR. KELLY: Your Honor, I'm going to object.
19 Narrative. It's gone beyond the scope of the
20 question.

21 THE COURT: Sustained.

22 Q. BY MS. POLK: In response to a question
23 from Mr. Kelly, you said that you were upset that
24 Mr. Ray had not personally called you.

25 Do you recall that answer?

1 A. Yes.

2 Q. Why were you upset?

3 A. I thought that I had done a lot, went way
4 beyond the scope of duty of any job and -- you
5 know -- I thought maybe he would be appreciative of
6 me helping save lives instead of throwing me aside
7 and not having any sort of connection or thanks or
8 anything toward me except for just throwing me
9 aside.

10 Q. And why did you make the decision to
11 allow the interviews with the various media that
12 Mr. Kelly asked you about?

13 A. It was just something that happened.
14 It's not something that I planned. I just -- it
15 was part of -- part of, I guess, just getting it
16 out to the people so everybody knew the truth.

17 Q. Thank you, Ms. Martin.

18 Thank you, Your Honor.

19 THE COURT: Thank you, Ms. Polk.

20 Are there any questions from the jury? I
21 have at least one question. So, Ms. Martin, please
22 remain seated there for a moment while I get the
23 jury questions.

24 Counsel, approach, please, and review the
25 questions.

1 (Sidebar conference.)

2 THE COURT: Any objection to No. 1?

3 MS. POLK: No, Your Honor.

4 MR. KELLY: No.

5 THE COURT: Here's No. 2. What about No. 2?

6 MS. POLK: No objection.

7 MR. KELLY: I have some concerns.

8 THE COURT: Stick with No. 2, Ms. Polk, a
9 second here.

10 MR. KELLY: You know, the answer is -- I
11 believe the answer is that the sweat lodge was
12 conducted for James Ray International. But given
13 her answers, I don't think she has personal
14 knowledge of that. I think when we hear later from
15 some other witnesses, they're going to be able to
16 provide the answer to the question.

17 So I guess I'm kind of babbling here. I
18 just have a concern if she were to go on past
19 simply whether it was constructed for JRI or not.

20 THE COURT: There is two ways I can do it. I
21 can emphasize she has to answer with her own
22 personal knowledge. These are the kind of
23 questions I like to let the jury know that it's
24 anticipated that there are other witnesses who have
25 more direct information. Either way the question

1 can be handled.

2 Ms. Polk?

3 MS. POLK: Fine with me.

4 MR. KELLY: I think the better answer is later
5 to let them know that the person who constructed it
6 is going to show up.

7 THE COURT: I just but it generally there may
8 be witnesses who have -- okay.

9 I was going to make a record of this at
10 the next break anyway. My -- the primary concern
11 really with this came to a 403 issue. Thinking
12 back to the 404(b) hearing, this is an event that
13 came out of 2005 sweat lodge, as I recall. It was
14 four years before.

15 There was a whole story about being angry
16 but Mr. Ray later apologizing. And to pull that
17 forward now, it was -- especially in view of
18 Mr. Kelly's question was rather open-ended. She
19 could have gone right there to say, well, I didn't
20 call and this is -- and this is why.

21 The 403 potential is just extremely high.
22 I was going to make a record of that. And even to
23 the point that the procedures -- there is testimony
24 or evidence in the written materials about
25 procedures changing after 2005. And it just opens

1 up a huge story with hearsay. So I want to make
2 that record.

3 But in light of that, Ms. Polk, I know
4 what you're going to say about this question.
5 But --

6 MS. POLK: The problem I have is the jury
7 wants to know why this witness did not call 9-1-1.
8 Mr. Ray -- Mr. Kelly -- I'm sorry -- asked this
9 witness why he didn't -- she didn't call 9-1-1,
10 presented the suggestion to the jury that if this
11 witness thought things were so bad, why didn't she
12 call 9-1-1.

13 He completely opened that door. And to
14 not let this witness tell the jury, I didn't call
15 9-1-1 because Amayra Hamilton -- I talked to Amayra
16 Hamilton about it. She said James Ray had yelled
17 at her in the past for doing it -- I just think
18 Mr. Kelly has gone there and has left the
19 impression with this jury that either this witness
20 or Amayra Hamilton made the decision on their own
21 not to call 9-1-1. It's a completely inaccurate
22 picture of what actually happened.

23 THE COURT: Excuse me.

24 If people want to stand, please feel
25 free.

1 I know that's the argument, Mr. Kelly.

2 MR. KELLY: Judge, the record speaks for
3 itself. I have a different interpretation as to
4 the question and the answer.

5 Rule 403, 404(b) -- they have purposes.
6 And in addition to that we have a significant
7 hearsay problem. And I direct your attention to
8 the questions themselves. The first question is,
9 what previous events were you referencing? Clearly
10 goes into the prior act arena and should not be
11 asked.

12 And then the second is, why didn't you
13 call 9-1-1? And she has answered that question.
14 In fact, the answer to that question is summarized
15 in the paragraph from the juror preceding the
16 question. So it's a dangerous area, Judge.

17 THE COURT: I'm thinking back to the 404(b)
18 hearing when there is this discussion but then
19 there is this apology and there is a change of the
20 whole procedure. So why four years later if there
21 is really a problem, there would be hesitation? It
22 just opens up a whole area of litigation that this
23 witness especially in the manner she was
24 answering -- well, I think she would have -- it
25 would have come out if that was some factor. So

1 the 403, it's just tremendous danger I'm not going
2 to ask it.

3 Counsel, there's more.

4 Any objection to 4, Ms. Polk?

5 MS. POLK: No objection.

6 THE COURT: Mr. Kelly?

7 MR. KELLY: Judge, I object on relevance.
8 Submit it to the Court.

9 THE COURT: I'm going to ask that just to go
10 through with it.

11 (End of sidebar conference.)

12 THE COURT: I'll ask these questions, and the
13 lawyers may choose to follow up also.

14 When you left the lady after the first
15 round, how much time did it take you to go to your
16 room and change and get back to the sweat lodge to
17 see Lou Caci with his arm in the ice bucket?

18 THE WITNESS: I might have been gone 20
19 minutes, half an hour. Something like that.

20 THE COURT: Okay.

21 Follow up, Ms. Polk?

22 MS. POLK: No, Your Honor.

23 THE COURT: Mr. Kelly?

24 MR. KELLY: No.

25 THE COURT: You mentioned that you didn't feel

1 able to resume work after the Spiritual Warrior
2 seminar. Do you know when the next event was after
3 the 2000 Spiritual Warrior, how many days after?

4 THE WITNESS: It was the following Tuesday.
5 There was a free event that we were encouraged to
6 attend as JRI employees. And then the following
7 event was just that next Friday. So it was
8 within -- within the five-day period of getting
9 back.

10 THE COURT: Thank you.

11 And follow up, Ms. Polk?

12 MS. POLK: No, Your Honor.

13 THE COURT: Mr. Kelly?

14 RE CROSS-EXAMINATION

15 BY MR. KELLY:

16 Q. Ms. Martin, I believe you -- your
17 understanding is that after Spiritual Warrior in
18 October of 2009 those future events were cancelled.
19 Correct?

20 A. **No. The event went on. The World Wealth**
21 **Summit went on the next weekend.**

22 Q. And after that weekend everything was
23 cancelled -- I heard your answer on recross. And
24 you said JRI no longer existed sometime during the
25 fall of 2009; correct?

1 A. **At some point JRI ceased to operate. But**
2 **they did an event right after Spiritual Warrior**
3 **called "World Wealth Summit." It was the next**
4 **weekend.**

5 Q. One event and then everything else was
6 cancelled?

7 A. **Oh. I think they went in and did another**
8 **one after that.**

9 Q. You don't know for sure?

10 A. **I believe it was in Denver. And I think**
11 **after that they -- they went to another event, and**
12 **then that one was cancelled.**

13 Q. You did not attend any of these events;
14 correct?

15 A. **Correct. I did not.**

16 Q. You were not asked to be the event
17 coordinator; correct?

18 A. **Correct.**

19 MR. KELLY: Thank you.

20 THE COURT: Thank you.

21 Ladies and gentlemen, as I said in the
22 original instructions, sometimes questions can't be
23 asked just for legal reasons. And that's a
24 decision for the Court. And other times there just
25 may be witnesses who have more pertinent or

1 relevant information. So, again, don't ever read
2 anything into the fact that your question may not
3 be asked.

4 So, Counsel, may Ms. Martin be excused as
5 a witness at this time?

6 MS. POLK: Yes, Your Honor.

7 MR. KELLY: Yes, Judge.

8 THE COURT: Okay.

9 Ms. Martin, you will be excused at this
10 time. Please recall the rule of exclusion.

11 Thank you very much.

12 Ms. Polk, does the state have another
13 witness?

14 MS. POLK: Yes, Your Honor. The state calls
15 Scott Barratt.

16 THE COURT: Sir, if you'd please step to the
17 front of the courtroom where the bailiff is
18 directing you and then raise your right hand to be
19 sworn by the clerk.

20 WILLIAM S. BARRATT,
21 having been first duly sworn upon his oath to tell
22 the truth, the whole truth, and nothing but the
23 truth, testified as follows:

24 THE COURT: Please be seated here to my right.
25 Sir, would you please begin by stating and spelling

1 your full name.

2 THE WITNESS: William Scott Barratt;
3 W-i-l-l-i-a-m, S-c-o-t-t, B-a-r-r-a-t-t.

4 THE COURT: Thank you.

5 Ms. Polk.

6 MS. POLK: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MS. POLK:

9 Q. Good afternoon, Mr. Barratt.

10 A. **Good afternoon.**

11 Q. Will you start by telling the jury what
12 community you live in.

13 A. **Spokane, Washington.**

14 Q. And how long have you lived in that
15 community?

16 A. **35 years.**

17 Q. What is your occupation there?

18 A. **I'm owner and general manager of a**
19 **general contracting company.**

20 Q. What sort of work does the -- what sort
21 of business is the company in?

22 A. **We specialize in water well and water**
23 **system construction and maintenance.**

24 Q. How many -- what did you do before having
25 your own general contracting company?

1 **A. How far back?**

2 **Q. Well, what I specifically would like you**
3 **to tell the jury is what your military service**
4 **history is.**

5 **A. I graduated from Washington State**
6 **University in 1971 with a degree in business.**
7 **Uncle Sam was patiently waiting for me. I spent**
8 **the next four years serving as an Army helicopter**
9 **pilot. And that was so exciting that I served two**
10 **more years as a -- for the National Guard as a**
11 **medevac pilot.**

12 **And then a couple years in construction**
13 **management. And after that I had my own businesses**
14 **for the last 35 years approximately.**

15 **Q. Will you explain to us what your job as**
16 **an Army medevac pilot entailed.**

17 **A. Well, basically, flying aircraft and**
18 **aircraft commander. I also had other extraneous**
19 **duties. I was trained as a -- as a medic.**
20 **Although I don't know how that would ever work.**
21 **When you're sitting up front, you can't do much in**
22 **the back. But I guess I helped make decisions.**

23 **Q. Tell us what sort of training you had as**
24 **a medic.**

25 **A. Well, I trained to do a lot of things I**

1 **wouldn't ever want to do. But we were trained to**
2 **cut out serious wounds, do sutures, tracheotomies.**
3 **Things like that.**

4 **Q. Did you ever use that medical training**
5 **after you moved on from being an Army pilot?**

6 **A. No. Nothing serious. Just first aid.**

7 **Q. Will you tell the jury how you came to**
8 **know a man named James Ray.**

9 **A. Yes. I attended a conference in Reno**
10 **years back, and he was a guest speaker at that**
11 **conference. And I was very impressed by the**
12 **presentation. And I signed up for one of his**
13 **seminars at that conference.**

14 **Q. Do you recall what seminar you signed up**
15 **for?**

16 **A. It was MXI. It's a chocolate**
17 **distribution company, healthy chocolate company, in**
18 **Reno.**

19 **Q. Did you go on to attend additional events**
20 **put on by James Ray?**

21 **A. Yes. I've done, I believe, five events**
22 **over the years.**

23 **Q. Can you tell the jury the names of the**
24 **events that you've done?**

25 **A. No.**

1 **Q. Over what period of time did you do those**
2 **events?**

3 **A. Probably over a period of about seven**
4 **years.**

5 **Q. Were they all paid events?**

6 **A. Yes.**

7 **Q. And did you come to sign up for Spiritual**
8 **Warrior 2009?**

9 **A. Yes.**

10 **Q. Had you done the Spiritual Warrior**
11 **seminar before that?**

12 **A. No.**

13 **Q. How much did you pay for this seminar?**

14 **A. I don't know because after about the**
15 **third seminar he offered a package program, and I**
16 **signed up for a package, I think three additional**
17 **seminars. So I would guess it would be about**
18 **\$2,500 maybe for this Spiritual Warrior seminar if**
19 **you prorate it out.**

20 **Q. Did you attend the other events that were**
21 **part of the package with Spiritual Warrior?**

22 **A. Yes, I did.**

23 **Q. Was that before going to the Spiritual**
24 **Warrior event?**

25 **A. Yes.**

1 **Q. Can you tell the jury what your reasons**
2 **were for attending the James Ray seminars.**

3 **A. Well, in general, I grew up in a very**
4 **rural environment. And once I found out the Earth**
5 **wasn't flat, I've always tried to do self-help type**
6 **seminars. And his seminars are just a great**
7 **vehicle to accomplish what I want to do --**
8 **basically, expand my horizons and learn more about**
9 **how -- how the universe works and things happening**
10 **in this world.**

11 **Q. Were you doing it for business or**
12 **personal reasons or both?**

13 **A. Both.**

14 **Q. Prior to Spiritual Warrior 2009, had you**
15 **ever been in a sweat lodge before?**

16 **A. No.**

17 **Q. Had you had experience with heat before?**

18 **A. Just the sauna and steam room at health**
19 **clubs.**

20 **Q. And did you know that a sweat lodge was**
21 **part of Spiritual Warrior 2009?**

22 **A. No.**

23 **Q. When did you find out that there would be**
24 **a sweat lodge?**

25 **A. About two hours before the event.**

1 Q. We've heard testimony that Mr. Ray
2 encouraged participants throughout the week of
3 Spiritual Warrior 2009 to hydrate. Would you agree
4 that you were encouraged by Mr. Ray to hydrate?

5 A. Absolutely.

6 Q. When you were encouraged by Mr. Ray to
7 hydrate, did you know that a sweat lodge was
8 coming?

9 A. No.

10 Q. Would that have made a difference to you?

11 A. It would have to me. Yes.

12 Q. Will you explain to the jury how so.

13 A. Well, I know how important sweat lodge --
14 or how important hydration is. And certainly going
15 to a sweat lodge, you know you're going to sweat a
16 lot. So I knew that would be very important to be
17 fully hydrated before you do that.

18 Q. Were you fully hydrated when you entered
19 Mr. Ray's sweat lodge ceremony?

20 A. No.

21 Q. Why not?

22 A. Well, the night before we did our Vision
23 Quest, we went out in the desert for -- I thought
24 it was going to be 40 hours. I guess it was less
25 than that. But we weren't allowed to take any

1 water or food or anything out there.

2 And just prior to going out, I'd done one
3 of the warrior events which required that I hold
4 heavy books straight out and -- as long as I could
5 with a -- against an opponent. And he and I got
6 going to the point where we were both in some kind
7 of altered state of mind. And by the time it was
8 all done, I was totally drenched in sweat.

9 And then shortly thereafter we had to go
10 out -- and we did have water bottles. And I was in
11 the process of chugging mine down when a gal --
12 Kirby Brown came over. And we were under code of
13 silence. And she motioned that she didn't have a
14 water bottle or she wanted some water, so I shared
15 mine with her and -- and then I drank what little
16 was left. So I know I was significantly dehydrated
17 then.

18 When we came back in from that Vision
19 Quest after not eating or drinking for a number of
20 hours, I thought, Oh. This is a great start to a
21 diet. And so when I got back into the dining
22 facility, I didn't make any special point to -- I
23 made a special point not to eat much and I didn't
24 make a special point to drink much. Because on
25 empty stomach I was just afraid it might upset my

1 stomach. So I just ate very moderately and drank
2 very moderately.

3 And -- and -- but I did take my water
4 bottle, which they've supplied water bottles there.
5 But I took mine to the next class with me and did
6 drink moderately.

7 Q. At the time coming in off the Vision
8 Quest and the fasting from food and water and the
9 breakfast that you've just testified about, did you
10 know at that point that a sweat lodge was coming
11 up?

12 A. Well, I knew after that -- after -- after
13 the -- the breakfast time period and then we had
14 the class. And it was up to about noon -- it was
15 about noon, I think, that he started explaining to
16 me what the -- to us what the next event was. And
17 that was the sweat lodge.

18 Q. When you learned that a sweat lodge was
19 coming around noon, did you then focus on
20 hydrating?

21 A. I think everybody did. All of a sudden
22 water bottles started coming out, and we all
23 started drinking.

24 Q. Let's back up a little bit. First of
25 all, you mentioned Kirby Brown.

1 A. Yes.

2 Q. Will you tell the jury how you came to
3 know Kirby.

4 A. Well, I didn't really know her. Just
5 James encouraged us to circulate around. And every
6 time -- every meal he encouraged us to sit at a
7 different table and not -- not group up in -- in
8 groups and get to know each other.

9 And so I had occasion to have -- share
10 one meal with her. But I didn't really know her
11 other than just having a conversation and a meal --
12 meal with her.

13 Q. And this interaction that you've just
14 spoken about at the conclusion of the Samurai Game
15 before you began the Vision Quest -- how long was
16 that interaction with Kirby when you shared your
17 water bottle with her?

18 A. Oh, it was just seconds. I mean, I -- I
19 think I had drank maybe half of my bottle, and she
20 maybe drank a quarter of it, and then I drank the
21 other quarter. And then we were all off into the
22 dark in our own little groups.

23 Q. Why did you not go get more water to
24 drink then?

25 A. There was not water available there at

1 that time where we were located.

2 Q. And tell the jury where you were located.

3 A. We were in a large event tent on the edge
4 of the basic grounds of -- of Angel Valley where
5 we'd done this warrior -- Samurai Warrior event.
6 And there was no water in there that I was aware
7 of.

8 Q. You talked to the jury a little bit about
9 the Samurai Game and your role. Do you know where
10 Kirby Brown was during the Samurai Game?

11 A. No.

12 Q. Were you aware of her at all?

13 A. No.

14 Q. When was it that you first became aware
15 of Kirby?

16 A. That night?

17 Q. Yes.

18 A. Just when she came up and motioned
19 something like that she wanted water. And I handed
20 it to her, and she drank some and handed it back,
21 and I finished it off. We both immediately left
22 because we were in a hurry to -- I mean, we were
23 supposed to be in a hurry to catch up to our teams.

24 Q. Where were your teams going that you were
25 trying to catch up to?

1 A. We were forming up outside of that tent
2 so we could be led out into the desert where our
3 positions were going to be for the next 40 hours or
4 whatever the time period was.

5 Q. Were you able to get any water, then,
6 other than what you had just consumed before you
7 started on your Vision Quest?

8 A. No.

9 Q. And do you know if Kirby Brown was able
10 to get any water in addition to the little bit that
11 you had shared with her before she started her
12 Vision Quest?

13 A. No.

14 Q. You don't know or she --

15 A. I don't know that she did. No. I -- I
16 would assume she was under the same circumstances
17 where we get in -- in teams and single file. And
18 they lead us out. So it's not where you can stop
19 off and -- and fill up a water bottle. I don't
20 know if she did or not. But she did not have a
21 water bottle. That's why she wanted some of mine.

22 Q. How big -- if you would tell the jury,
23 how big was your water bottle?

24 A. About that big around, about that tall.
25 And I'd say it's about 32 ounces.

1 Q. Was it full when you began to drink from
2 it after the Samurai Game?

3 A. It was full before the Samurai Games and
4 just -- and -- yeah. I'm pretty sure it was full.
5 I would have had it full knowing that I needed to
6 drink it at the last minute before we went out. So
7 it would have been full. Just immediately after
8 the Samurai Games were done, it would have been
9 full. Yes.

10 Q. And how much of that water bottle did you
11 drink?

12 A. Well, as I mentioned, I think I drank
13 about half of it, and maybe Kirby drank a quarter
14 of it, and I drank the other quarter. So I drank
15 maybe three quarters.

16 Q. Okay. And I would like to just back up a
17 little bit and go back to the beginning of
18 Spiritual Warrior 2009. Tell the jury, if you
19 would, what was your attitude in terms of your
20 participation as you began Spiritual Warrior 2009?

21 A. Well, James used the term "play full on."
22 I think it's a good -- good term. I paid a fair
23 amount of money to attend these things, and I've
24 always felt I want to get the maximum benefit. So
25 I was committed to play full out and participate to

1 my maximum ability.

2 Q. The jury has heard about an event where
3 participants were invited to shave your heads that
4 occurred on Sunday night. Do you recall that
5 event?

6 A. I surely do.

7 Q. Tell the jury why you surely do.

8 A. I got my head shaved. You don't do that
9 every day.

10 Q. Do you know in what order you got your
11 head shaved?

12 A. Well, I was -- you mean was I -- I guess
13 was your question was I the first or last? I was
14 the -- I was the first one to have my head shaved.

15 Q. And tell the jury what immediately
16 preceded that made you volunteer to be the first to
17 get your head shaved.

18 A. I don't know if I volunteered. But I was
19 going to play full out, and that was part of it.
20 But we had a little group get together. It was
21 just after dark, as I remember. James is kind of
22 having a little welcome speech and give us a little
23 idea of what was going to go on.

24 And then he told us about -- something
25 about monks, when they enter into the monastery as

1 a symbol that they're leaving all their baggage and
2 garbage behind, they get their head shaved.
3 And then he mentioned people who were here to play
4 full out. And he said, for those who want to get
5 their head shaved, we have a little station up here
6 on this next level where you can go up there and
7 get your head shaved and do like the monks do, if
8 you're here to play full out. And I thought, well,
9 I'm here to play full out.

10 And then he went on to say, high
11 achievers make -- make quick decisions and take
12 fast action. I thought, well, I'm here to learn to
13 become a -- a high achiever. So -- I didn't know
14 when we were supposed to do it, but I just thought
15 well, he said high achievers make quick decisions
16 and take fast action.

17 So I just stepped out of the back of the
18 group and I trotted up the hill and sat down in the
19 chair. And -- and they had three people up there
20 waiting to -- to cut your hair off. And so I was
21 the first one there to do that.

22 Q. Okay. Throughout the events of the week,
23 did Mr. Ray talk to you about altered states of
24 awareness or consciousness?

25 A. Yes.

1 Q. Tell the jury what you recall about that.

2 A. Well, in the training they talk a lot
3 about the unconscious mind and how you can
4 reprogram that, and there's different ways of doing
5 it. One way that I found very useful, before I go
6 to sleep at night I tell myself what time I'm going
7 to get up in the morning. And I tell myself I'm
8 going to wake up rested and ready to go and happy
9 and review the goals of my life. And -- and that's
10 part of programming your subconscious mind. And
11 it -- it works very well for me. I wake up without
12 an alarm clock.

13 And so -- so that's part of maybe
14 programming your subconscious mind -- your
15 unconscious mind. But another way is doing it in
16 altered states of consciousness. And so he's
17 talked about different ways of doing that as far as
18 different breathing techniques. The word is not
19 coming to me. When you sit and --

20 Q. Would it be meditation?

21 A. Meditation. Yeah. Meditation, another
22 way of doing it.

23 Q. Were there opportunities offered by
24 Mr. Ray that week to achieve an altered state of
25 consciousness?

1 A. Yes.

2 Q. And meditation was one of them?

3 A. Quite a bit of meditation. Yes.

4 Q. Did you participate in that?

5 A. Yes.

6 Q. Did you achieve an altered state of
7 consciousness?

8 A. Sometimes I think I might be too
9 boneheaded for that to work. I fell asleep a
10 couple times. So I don't know if I was in an
11 altered state of consciousness. But I don't know
12 if it worked for me. I've only done it -- tried it
13 several times.

14 Q. Did you participate in breathwork or
15 Holotropic breathing?

16 A. Yes.

17 Q. Did you achieve an altered state of
18 consciousness through that exercise?

19 A. I didn't become aware of any altered
20 state of mind. When we get done here, you're
21 instructed to draw on a piece of paper what -- what
22 you saw during your trip or your journey. I didn't
23 see anything. I just sat and draw a whole bunch of
24 circles.

25 It was pretty amazing some of the

1 pictures some other people drew, what they got out
2 of it. But I just drew a whole bunch of circles
3 with different colors because I didn't know what
4 else to do. I said, just get your pen and start --
5 start drawing. And so I just started doing
6 circles.

7 Later on when you get in groups and you
8 interpret that, one gal says, well, you've got a
9 very complicated mind, obviously, and your mind is
10 always racing. So I guess my mind was just going
11 around in circles.

12 Q. Did Mr. Ray explain to you what the point
13 of achieving an altered state of consciousness was?

14 A. As I understood it, it was -- just was to
15 reprogram your -- your unconscious mind to achieve
16 the goals and the -- the changes in your life that
17 you wanted.

18 Q. Let's talk about -- you testified a
19 little bit about the Samurai Game and the exercise
20 you participated in. How long did you last in the
21 Samurai Game -- or let me rephrase that.

22 Were you ever pronounced dead by Mr. Ray
23 during the Samurai Game?

24 A. Well, I was called out twice to do two of
25 the events. I survived the first one. The second

1 one I think he declared me dead. But I think it
2 was unfair. My opponent had -- he was short and
3 very stocky. And so he was holding the books out
4 here, and I was holding the books out here. So I
5 think I had a mechanical disadvantage.

6 But nonetheless, we went a long time, to
7 the point where I felt that I was almost, like,
8 going into shock or something. I think he -- later
9 he said we went, like, 19 minutes. And so -- and
10 just hold your arm straight for two minutes.

11 That's quite a bit. And he put big books in it.

12 So I know myself I was -- I was just
13 totally drenched in sweat. My body was shaking
14 uncontrollably by the time we finished.

15 Q. What kind of books were you holding up?

16 A. Well, they were bigger than dictionaries.
17 I mean, like, big. Some big religious journal or
18 something. They were about this thick and
19 about this square. They were big.

20 Q. Do you recall who your opponent was?

21 A. No.

22 Q. Did you know a man named Stephen Ray?

23 A. I remember the name, but I couldn't -- if
24 he was in the room, I don't know if I'd pick him
25 out.

1 Q. Okay. Would you consider yourself to be
2 a competitive person?

3 A. Fairly competitive, I'd say. Yes.

4 Q. For -- for you was that event where you
5 were holding out the books -- was that a
6 competitive thing?

7 A. Yes.

8 Q. And for your opponent?

9 A. Yes. He was very -- very worthy
10 opponent.

11 Q. You said that you were called twice to do
12 events. Who was the person calling you out to
13 compete?

14 A. I believe James did all that, selected
15 people to come out.

16 Q. And you've used --

17 A. I should -- I maybe shouldn't say that.
18 It might have been our -- our team leader that
19 selected somebody to go out for each event. And
20 then James would determine what the event would be
21 based on who went out.

22 Q. And you've used "James," the word
23 "James," a number of times. You mean James Ray?

24 A. Yes.

25 Q. And so somebody would decide who the

1 competitors would be?

2 A. Yes.

3 Q. And then Mr. Ray would decide what the
4 event -- the actual exercise would be?

5 A. Right.

6 Q. What was the first event that you
7 competed on?

8 A. Had to stare a person in the eye without
9 blinking.

10 Q. How did you do that?

11 A. I won.

12 Q. Do you know who your competitor was --
13 your opponent was?

14 A. Some female. We -- we relied on name
15 tags all -- all week. And then all of a sudden
16 people don't have name tags. You get kind of lazy.
17 But some -- some -- some gal.

18 Q. Okay. Were you -- after the game where
19 you're holding books, you were pronounced dead?

20 A. Yes.

21 Q. Who pronounced you dead?

22 A. James.

23 Q. And then what -- what did you do?

24 A. Then they lead you over into the -- I
25 don't know. The death den or whatever they call

1 it. And they lay you down. They put a blanket
2 over the top of you, and you lie there without
3 moving until the entire event is over.

4 Q. How long did you lie there without
5 moving?

6 A. It seemed like an awful long time because
7 I couldn't -- I mean, I was gasping for air and I
8 couldn't breathe and -- I told you I was drenched
9 in sweat. And then they put this heavy blanket
10 over you. So it seemed like a long time. But I
11 think I was the last or one of the last events. So
12 it probably wasn't more than ten minutes maybe that
13 I was there.

14 Q. You just testified that you had a heavy
15 blanket on you and you were gasping for air. Did
16 that continue for the entire time that you were
17 lying there dead?

18 A. Well, as time went I was -- gradually was
19 calming down, slowing down, and regaining
20 normality. So that improved.

21 Q. Did you think about moving the blanket
22 off your face so that you could get some air?

23 A. You weren't allowed to move at all. If
24 they saw any movement, then they would -- they
25 would kill off another one of your team members.

1 Q. But for you, since you were having
2 trouble breathing, did you think about removing the
3 blanket so you could breathe?

4 A. Constantly.

5 Q. And why didn't you do it?

6 A. I didn't want one of my team members to
7 get killed off.

8 Q. How was the Vision Quest for you?

9 A. Fine. It was a restful period.

10 Q. When you did the Vision Quest, did you
11 think you were near the end of the events of
12 Spiritual Warrior 2009?

13 A. No. Just based on knowing how many days
14 we were going to be there, this was in the
15 middle -- towards the middle of it. So I thought
16 we were probably a little over halfway through,
17 three quarters through, maybe. But I knew there'd
18 be more events and more -- more class time after
19 that just based on the calendar.

20 Q. Okay. And now let's talk about the sweat
21 lodge ceremony itself. You said it was around noon
22 on the day of the sweat lodge that you first
23 learned that you were going to be doing it. Do you
24 recall Mr. Ray talking to you and the other
25 participants about what to expect?

1 A. Yes.

2 Q. And tell the jury what you remember today
3 about what you were told by Mr. Ray.

4 A. Well, he announced that we were going to
5 do a sweat lodge event. And the purpose of it was,
6 again, to get into an altered state of
7 consciousness. We made these tobacco pouches. And
8 each one had the commitment or goal in it that we
9 were going to program into our unconscious minds
10 while we're in the sweat lodge in this altered
11 state of consciousness.

12 He said it's going to be hot. It's going
13 to be hotter than anything you've ever experienced.
14 It's going to feel like your skin is going to fall
15 off, going to be very uncomfortable. You just have
16 to work through it.

17 Q. Were you told to look out for your body's
18 indications to yourself that you might be suffering
19 or not doing well?

20 A. I don't recall that. I just recall that
21 we were to expect that it was going to be very hot
22 and very uncomfortable.

23 Q. And what were you told to do when things
24 became uncomfortable?

25 A. We were told to work -- work through it,

1 just deal with it.

2 Q. For what purpose? Why -- why work
3 through your body's discomfort?

4 A. Well, as I understood it, it was just a
5 necessary step to get to the point where you get an
6 altered state of consciousness. And you had to
7 just bear through that in order to get to that
8 stage to accomplish what -- what the purpose of the
9 sweat lodge was.

10 Q. Did Mr. Ray indicate to you whether or
11 not he had the training and experience to conduct a
12 sweat lodge ceremony?

13 A. He relayed to us that he had done
14 numerous sweat lodges before. He's participated in
15 a lot of other sweat lodge events, and that's where
16 he got his training and where he built this program
17 from apparently.

18 Q. Did you trust Mr. Ray that he would keep
19 you safe in his sweat lodge?

20 A. Yes.

21 Q. What was your intention as you entered
22 Mr. Ray's sweat lodge ceremony?

23 A. Well, I -- there's seven -- seven phases
24 of the sweat lodge. And for each of those phases
25 you had an intention that you were going to program

1 into your subconscious mind. And, basically, mine
2 was just a series of goals and changes in my life
3 that I -- I wanted to make.

4 Q. And was there some relationship that you
5 understood between the pouches, the number of
6 pouches, and the length of ceremony?

7 A. Yes.

8 Q. What was that?

9 A. Well, just that each -- each phase was a
10 different pouch and -- and -- and each time we went
11 to a different phase. Then you focused on the next
12 pouch or your next intention.

13 Q. And as you entered this sweat lodge, what
14 was your mind-set? What was your attitude in terms
15 of what you intended to do?

16 A. Well, again, I -- my intention was to
17 play full out and -- and go through the entire --
18 participate through the entire process.

19 Q. I'm going to put up on the overhead
20 Exhibit 144. And if you want, I can bring it up to
21 you where you sit.

22 What I want to know is if you recognize
23 yourself in this photograph. And you can --
24 there's actually a monitor at your station if you
25 look down.

1 **A. Uh-huh.**

2 **Q.** Do you want me to bring you the
3 photograph?

4 **A. That might be helpful. I don't see**
5 **myself there.**

6 **Well, that might be me, but I'm not sure.**
7 **I might already be inside. I was one of the first**
8 **ones in or near the first.**

9 **Q.** Okay. Let me put that back on the
10 overhead, and we can talk about it.

11 **A. That might be me. I wore black shorts**
12 **and didn't have a shirt on.**

13 THE COURT: Excuse me, Ms. Polk, I just have a
14 note. If we could take our afternoon recess right
15 now.

16 MS. POLK: Yes.

17 THE COURT: Ladies and gentlemen, we'll take
18 the afternoon recess. Please remember the
19 admonition. And be back assembled in 20 minutes,
20 so about 25 till.

21 I just want to speak to Mr. Barratt
22 briefly about the rule of exclusion of witnesses.
23 I'll talk to you more about that later, but it,
24 basically, means you can't discuss your testimony
25 or this case with any other witness until the

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1 matter is completely over, the trial is over.

2 You can talk to the lawyers, though, as
3 long as other witnesses aren't present.

4 Do you understand?

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you. You are excused as
7 well. We are in recess.

8 (Recess.)

9 THE COURT: The record will show the presence
10 of the defendant, Mr. Ray; the attorneys, the jury.
11 The witness, Mr. Barratt, has returned to the stand
12 and has been sworn.

13 Ms. Polk.

14 MS. POLK: Thank you.

15 **Q.** Mr. Barratt, did you come to meet a lady
16 named Elsa Hefstad at Spiritual Warrior 2009?

17 **A. I did.**

18 **Q.** How did you meet her?

19 **A. Actually, it was the first night. I was**
20 **the first one getting my head shaved. And then**
21 **everybody else gradually went up the trail and got**
22 **in line. And then when I got all done, I was just**
23 **kind of standing around.**

24 **There was one gal standing off by herself**
25 **not in line. And I thought well, I'm just standing**

1 **around. I just walked over to her and looked at**
2 **her name tag and said, Elsa, what are you thinking?**
3 **Because obviously she was having ulterior motives**
4 **or something. What's going on?**

5 **She looked at my name tag, said, well,**
6 **Scott, it took me a long time to get in this man's**
7 **world where I am. And my hair is an important part**
8 **of that. I'm not going to do this.**

9 **And I said, well -- you know -- you --**
10 **you just do what you think is right, or something**
11 **like that.**

12 **And -- so anyway, that -- that was kind**
13 **of the end of that conversation. And -- and she**
14 **kind of went on her way. And I -- we just kind of**
15 **hung around and waited for everybody else to get**
16 **their hair cut.**

17 **Q.** Did Elsa cut her hair?

18 **A. No.**

19 **Q.** Did you later -- well, let me ask you
20 this: Do you know if Elsa Hefstad went into the
21 sweat lodge?

22 **A. No, she didn't.**

23 **Q.** How did you learn that?

24 **A. After we were being prepared to go to the**
25 **sweat lodge and the classroom and told what to**

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1 **expect and how it was going to be, then we were**
2 **given 15 minutes to run back to our tents or cabins**
3 **and get changed into shorts or swimming suit,**
4 **whatever we were going to wear for the sweat lodge,**
5 **and get our water and get our -- our little tobacco**
6 **pouches and then report back at the sweat lodge.**

7 **So we didn't have much time. So we were**
8 **all kind of gathering up our stuff and getting out**
9 **the door. And I noticed Elsa again just standing**
10 **outside the door not really going anywhere.**

11 **And so on my way out, I just walked over**
12 **and said, Elsa, what are you thinking? Same thing**
13 **again. And she said something like, Scott, I know**
14 **if I go in that sweat lodge, I will die.**

15 MR. KELLY: Your Honor, I'm going to object to
16 the hearsay response. Request the answer be
17 stricken.

18 MS. POLK: Your Honor, it's not offered for
19 the truth of the matter.

20 THE COURT: Mental state also.

21 Overruled.

22 **Q.** BY MS. POLK: You can go ahead and
23 answer.

24 **A. So I asked -- I said, Elsa, what are you**
25 **thinking? She said, Scott, I know if I go in that**

1 sweat lodge, I will die. And I just looked at her
2 and I said, well, Elsa, you better not do it, then.
3 And she said -- I don't remember what she said
4 after that.

5 But anyway, I had -- had to scamper on
6 down to my tent and get changed and get -- get back
7 up there to the -- to the sweat lodge event.

8 Q. And, to your knowledge, did Elsa go in?

9 A. No.

10 Q. Did you later hear from Elsa again?

11 A. Yes. Actually, the morning after the
12 sweat lodge event I ran into her in the dining
13 hall, and we visited a little bit. And she thanked
14 me for not --

15 MR. KELLY: Your Honor --

16 THE WITNESS: -- encouraging her to go into
17 the lodge and --

18 MR. KELLY: Excuse me, Mr. Barratt.

19 I'm going to object to the hearsay nature
20 of the response.

21 THE COURT: Sustained.

22 Q. BY MS. POLK: Did you, Mr. Barratt, enter
23 the sweat lodge with any specific people?

24 A. Well, not specifically. James encouraged
25 us to kind of pair up or something. And I

1 didn't -- I just kind of show up. I didn't pair up
2 with anybody. But Kirby had come over and thanked
3 me for sharing my water with her before we went out
4 on that Vision Quest event. And she was paired up
5 with someone.

6 And we were just standing there when it
7 came time to go in. And so I just said something
8 like, okay. I guess it's time. Let's go. And so
9 we kind of fell in line, and she and her partner
10 fell in line behind me.

11 Q. Will you tell the jury, if you can, what
12 you remember about Kirby's physical appearance as
13 she entered the sweat lodge.

14 A. Well, she was young. I don't -- it's
15 dangerous to guess women's ages, but -- so I'd say
16 she was young. Less than -- I would -- I thought
17 maybe less than 30. And appeared to be physically
18 fit.

19 Q. Did you notice her attitude as she
20 entered the sweat lodge?

21 A. Seemed normal. I mean, nothing unusual.

22 Q. Were you excited about entering the sweat
23 lodge?

24 A. No.

25 Q. How -- what were you feeling?

1 A. Well, I tend to be claustrophobic, so I
2 was -- and James said it was going to be
3 claustrophobic. And so I immediately was working
4 on my defense mechanism -- mechanics for that. So
5 I was apprehensive about that and just getting
6 through it, I think.

7 Q. I'm going to put up on the overhead
8 Exhibit 144. Before we took the break, you had a
9 moment to take a look at the actual photograph. Do
10 you know in terms of the order of people who went
11 in where you were in the line?

12 A. Well, the fellow in the red shorts,
13 he's -- he's taller than I am. Usually I'm the
14 tallest one in the group. So I think that's me
15 right in front of him in the black shorts. But I
16 didn't realize I looked that chubby from the back.

17 Too many ice cream cones, I guess. I'm
18 working on that.

19 Q. Do you know the name of the fellow that's
20 taller than you there?

21 A. If you said it, I would remember it. But
22 it's been awhile. But he was actually my team
23 leader in our warrior group.

24 Q. Was there someone named Bill?

25 A. That would be Bill.

1 Q. Okay.

2 A. Yes.

3 Q. I'm going to put up on the overhead
4 Exhibit 414, which is a very simple diagram of the
5 sweat lodge with the entrance being over here to
6 the right.

7 A. Yes.

8 Q. You can, with your finger, draw on the
9 monitor that's in front of you. And if you would,
10 show the jury how you entered the sweat lodge
11 structure.

12 A. Entered in here and then went around
13 clockwise around -- that's pretty cool. I wasn't
14 quite over to the 90-degree point but probably
15 right -- right about in there.

16 Q. Do you know, Mr. Barratt, where Kirby
17 Brown ended up?

18 A. Well, she and the gal that she was teamed
19 up with were right next to me, I think. And it was
20 really very dark in there. I don't think Kirby was
21 next to me, but I think her partner was next to me
22 and then Kirby was over here.

23 Q. Okay. You have drawn attention to your
24 height. Tell the jury how you were able to move
25 inside the sweat lodge given your height.

1 A. Well, everybody -- it was very low, so
2 everybody had to crawl on their hands and knees.

3 Q. How did the ceremony begin?

4 A. Well, everybody filed in single file and
5 got in there and -- and I'm sure James said a few
6 things. And then they started rolling in the --
7 the hot stones into the pit and put some water on
8 it, then some leaves or something. The -- the door
9 was closed. And then James started doing the --
10 the part of the ceremony, the chants and that sort
11 of thing.

12 Q. How were you doing at the beginning when
13 the ceremony first started?

14 A. Well, I was talking myself through the
15 claustrophobic thing. And there was another gal
16 that said right up front she was claustrophobic
17 and -- and I could hear her sounding anxious and --
18 and -- so I think that kind of distracted me from
19 me being claustrophobic a little bit, just thinking
20 about, okay, what she's going through.

21 But -- you know -- everybody is in there.
22 We're 60-some, 60 people. And if they can do it,
23 there's no reason why I couldn't.

24 Q. Did there come a time when you felt that
25 you couldn't do it?

1 A. Yes. At stage 4 I was feeling really
2 uncomfortable about what my body was telling me.

3 Q. What was your body telling you?

4 A. Well, it just -- I -- I felt like I was
5 becoming a little bit incoherent, which is what was
6 supposed to happen. But I just felt my core
7 temperature was extremely high. It was very hot in
8 there. I squatted down. I had my hands on my
9 knees. It was unbelievable how hot my breath felt
10 when I was exhaling on my arms.

11 And I know from my pilot physiology
12 training that a temperature of 104 degrees, you're
13 sick and 107 degrees you're dead. Or something
14 like that. I could be off a few degrees.

15 But -- so I was -- went, wow. My core
16 temperature must be really hot. And I was
17 concerned about that, but I was still determined to
18 continue on.

19 And James said if it gets too hot, you
20 can always lie down on the ground and get some
21 relief there a little bit. And by that point some
22 people in front of me had already left, and so
23 there was a little bit of space. So I -- I laid
24 down on the ground a little bit just -- and that
25 helped a little bit. But I thought, Well, if I'm

1 playing full out, I need to sit back up and take
2 it.

3 Q. Why did you think that?

4 A. Well, just -- it was just I was there to
5 do it, not take any shortcuts.

6 Q. Well, you just testified that -- and I'll
7 use the figure you threw out -- that at 107 you're
8 dead. You were conscious that your core
9 temperature was heating up. And then you testified
10 that that's what was supposed to happen. Was that
11 making sense to you?

12 A. Well, yes. But I also was becoming
13 concerned. But I also at that -- at Stage 4 I
14 was -- I feel I was getting into an altered state
15 of consciousness at that point.

16 Q. And when you say "Stage 4," do you mean
17 round 4?

18 A. Round 4.

19 Q. And the altered state of consciousness
20 you felt you were experiencing at round 4 --
21 describe it for the jury.

22 A. Well, just a little bit nauseous. Maybe
23 the term "delirious" might be a good -- good word.
24 You just -- you know you're kind of buzzy, kind of
25 out of it a little bit. But the main thing I was

1 just -- I knew I was getting extremely hot,
2 overheated.

3 Q. Was it your intention at that time to
4 continue to push through it?

5 A. Yes.

6 Q. And you had testified earlier about the
7 pouches and how each pouch represented something.
8 Were you tracking that in your mind?

9 A. I was. I don't think I got past the --
10 the second stage before I was not able to focus on
11 even what my intentions were. I mean, I
12 couldn't -- I couldn't remember what they were at
13 that point even.

14 Q. And then by round 4 when you talked about
15 your core temperature being heated, what was your
16 intention?

17 A. My intention was to continue on.

18 Q. And why?

19 A. Because that's what I intended to do, was
20 come in and play full out and go through the
21 whole -- whole thing.

22 Q. Did you believe that you would be safe if
23 you continued to stay in there?

24 A. I was concerned about that. But I was
25 there to -- to hang in there. Yes.

1 Q. Was Mr. Ray still leading the ceremony at
2 that time?

3 A. Yes, he was.

4 Q. Did you trust that he knew what he was
5 doing?

6 A. Yes. I felt if he can -- what he was
7 doing was a lot of work, doing the chants and --
8 and just being able to remember the chants. And, I
9 mean, here I'm Stage 2. I can't remember what my
10 own little intention was, but yet he's going
11 through the entire ceremony with these chants
12 remembering everything.

13 I was amazed at his ability to do that.
14 And I thought well, if he can do that -- you
15 know -- all I have to do is just sit here and -- so
16 that should be doable.

17 Q. Tell the jury what happened next.

18 A. Well, I think it was about Stage 4. And
19 we were told that when we -- when the ceremony was
20 done, we'd single file out the same order we came
21 in and follow the person in front of you out.

22 But at Stage 4, the fellow -- I think it
23 was Stage 4. The fellow in front of me when they
24 opened the flap -- we were told if at any point
25 during the ceremony it's not tolerable, if you

1 can't take it, in between the stages when they open
2 the flap to bring in the stones, that would be a
3 chance for you to exit the -- the lodge.

4 And at Stage 4 there's -- approximately
5 at that point they opened the flap. The fellow in
6 front of me got up and headed out, and I just
7 spontaneously followed him out, thinking, Okay.
8 We're done. And I just followed him out without
9 even thinking.

10 And then I got outside and they --
11 immediately what they do is they hose you off
12 and -- so I immediately got hosed off, and I rolled
13 around a little bit and looked up and -- and kind
14 of came back to my senses and looked and said,
15 Whoa. I'm not supposed to be out here.

16 So I turned around and headed back in.
17 And I remember someone saying, wait a minute.
18 Scott is coming back in. So they held the flap
19 open for me.

20 Q. Was this still during -- had another
21 round gone by or was this during the same
22 opportunity when the door was first opened?

23 A. I really don't know. I don't know how
24 long I had been outside of the lodge. I don't know
25 if I came out at Stage 4 and they rolled the stones

1 in and I came back immediately in, or I don't know
2 if I missed an entire stage there. But I know by
3 the time I went back in, I was there for at least
4 two more -- two more rounds.

5 Q. And when you -- so you went back in at
6 some point?

7 A. I went back in at either the beginning
8 of -- went right back again either at the beginning
9 of Stage 5 or possibly Stage 6. I -- I don't know
10 for sure.

11 Q. Were you thinking clearly when you went
12 back in?

13 A. No. That's why I don't know if -- how
14 long I was actually out of it. If I'd been
15 thinking clearly, I don't know if I would have gone
16 back in again.

17 Q. When you went back in, did you go past
18 Mr. Ray?

19 A. Well, he was right at the entrance and
20 there. And I came back in and did like we're
21 supposed to, go back in in order -- or
22 counterclockwise order.

23 Q. Where did you go back to?

24 A. I came back in to right about here.
25 There was a gal laying right there. So I wasn't

1 able to get past to go back to where I was. And
2 there was a vacate spot here so I -- I sat down
3 there.

4 Q. Do you know who the gal was who was here?

5 A. I didn't know at the time. But I found
6 out later her name is Linda, I believe.

7 Q. And why would one person's body prevent
8 you from moving about in that sweat lodge?

9 A. Well, she was stretched out in that area.
10 I would have had to have crawled over the top of
11 her to avoid the pit to get back where I was. And
12 I thought well, there's no point in doing that.
13 I'll just sit right here.

14 Q. Did you notice anything about Linda?

15 A. None other than she appeared to be lying
16 face down, I would say unconscious or -- and I
17 couldn't say for sure she was unconscious. She
18 just was not moving. And she's just laying face
19 down.

20 Q. Did anybody say anything about Linda at
21 that time?

22 A. At that point when I sat down, James
23 mentioned somebody's name and said, move her back.
24 And whoever it was he was talking to said, I can't.
25 She's laying on my -- my legs. And at that point I

1 got up and went over and tried to move her.

2 Q. And was the flap open or closed? Do you
3 know?

4 A. I think the flap might have still been
5 open because I was able to see.

6 Q. And you just said James said, move her
7 back. You mean Mr. Ray?

8 A. Yes.

9 Q. You got up. And what did you do?

10 A. I went over and tried to move her back.
11 When the -- when the other fellow said, I can't,
12 she's -- she's lying on my legs, I went over to
13 move her back. And at that point James told me,
14 No. Just leave her, Scott. You're getting too
15 close to the fire, too close to the pit. And so I
16 went back and sat down where I was.

17 Q. And what happened to Linda?

18 A. She stayed there.

19 Q. Did you try to do anything further for
20 Linda?

21 A. Well, I -- I was -- I don't know if the
22 right term is "coherent" or not. But I was
23 conscious enough that I knew that -- I know how
24 badly I was suffering. Even after I'd been hosed
25 off and got some fresh air and came back in, I was

1 still suffering.

2 And I thought well, she's got to really
3 be suffering and in tough shape. And so I thought
4 well, maybe I can just go over and lay down in
5 front of her and shield her from the heat from the
6 pit.

7 But then I thought no. James already
8 admonished me from once being over there too close
9 to the pit. I better just mind my own business and
10 stay where I am. So I did.

11 Q. Do you have any recall today how Linda's
12 body was as it was stretched out in the blue area?

13 A. Yes.

14 Q. What end -- where was her head, for
15 example?

16 A. Her head was towards the pit.

17 Q. Where were her feet?

18 A. Back towards the wall partially. Maybe
19 a -- maybe a bit of an angle.

20 Q. Was there something about Linda that
21 concerned you?

22 A. Well, yes. She was -- appeared to be
23 unconscious or -- or suffering. I know when I -- I
24 was laying -- I laid down for a little while to
25 cool off. And that helped. But at least I was

1 moving around. And -- and I didn't see any
2 movement from her at all.

3 Q. And when Mr. Ray spoke to you when you
4 thought about doing something for Linda, what did
5 he say?

6 A. Well, I tried to move her. He said, no,
7 Scott. You're getting too close to the fire. Go
8 back and sit down. Or something like that. And I
9 went back and sat down.

10 Q. Did Mr. Ray see Linda? Do you know?

11 A. Yes.

12 MR. KELLY: Objection -- I'll withdraw.

13 THE COURT: You may answer.

14 Q. BY MS. POLK: Mr. Ray did see Linda,
15 then?

16 A. Yes.

17 Q. And the flap was open?

18 A. I think the flap was open. Yes.

19 Q. What round do you believe this was that
20 you became aware of Linda and the state she was in?
21 A. Well, this was when I came back in. It
22 was either beginning of round 5 or the beginning of
23 round 6.

24 Q. Do you know -- were you aware of Linda,
25 then, through the remainder of the sweat lodge

1 ceremony?

2 A. Yes.

3 Q. What were you aware of about her?

4 A. She remained there in that same position.

5 Q. Did she ever move?

6 A. Not that I saw. No.

7 Q. What happened to you, then, through the
8 remainder of Mr. Ray's ceremony?

9 A. I just sat putting in the time. Again, I
10 forgot what my commitments or convictions were, so
11 I just put in my time and -- and waiting for it to
12 get over with.

13 Q. And how were you feeling?

14 A. Terrible.

15 Q. Do you know how much longer you were in
16 the sweat lodge after you returned?

17 A. I know I was in at least two more rounds.

18 Q. And earlier you had been at this area
19 over here. Can you compare for the jury the heat
20 in that area compared to the second area that you
21 were.

22 A. Well, in the second area I was closer to
23 the pit. So theoretically it would have been
24 warmer. And over here I had -- was shielded by
25 other people that were sitting in front of me

1 initially until some of them left. So it was
2 probably hotter in the second position.

3 Q. You said that you were -- you talked
4 about feeling terrible. Describe for the jury
5 specifically what you were feeling for the
6 remainder of Mr. Ray's ceremony.

7 A. Again, I was still very nauseous,
8 somewhat felt like I was incoherent, extremely hot,
9 extremely uncomfortable, and just wishing that it
10 would get over really quick.

11 And -- and he was doing a great job doing
12 the -- the ceremony. But I was just wishing he
13 would do it a lot faster and get it done.

14 Q. Were you sitting up or laying down?

15 A. I was sitting up.

16 Q. Did you think about getting out when the
17 flap was opened?

18 A. No.

19 Q. And why not?

20 A. Because I'd already gotten some relief.
21 And that helped greatly. And there was other
22 people that were still in there for the entire
23 round. And if they can do it, I can do it too.

24 Q. Were you making good decisions,
25 Mr. Barratt?

1 A. I don't know.

2 Q. What was your mental state at the time?

3 A. Pretty foggy.

4 Q. Were you operating with a full deck?

5 A. No.

6 Q. And what do you mean by that?

7 A. Just -- I just know that I was -- the
8 thinking process was slow and blurred and -- and
9 just really uncomfortable and kind of groggy --
10 felt really pretty groggy.

11 Q. Were you aware of Kirby Brown at all
12 after you came back in?

13 A. No.

14 Q. Did you hear any talk going on inside the
15 sweat lodge?

16 A. Well, at one point somebody had lifted up
17 the back flap over in this corner. And there was
18 some talk about that. I don't remember -- I
19 remember in my mind that I thought if -- if -- if
20 James saw that, he would -- he'd be upset about it.
21 But then I think maybe he did see it. But I don't
22 recall exactly whether he saw that or not. So
23 there was a little bit of commotion maybe in that
24 corner.

25 Q. Were you -- during those last few rounds,

1 were you fully aware of what was going on around
2 you?

3 A. I would say I was somewhat aware but
4 certainly not fully aware. Again, I felt groggy.
5 I was probably more focused on my more -- my own
6 misery than I was on -- what was going on. Again,
7 I was just wishing James would speak faster and get
8 it over with.

9 Q. And are you able to remember today if
10 other people were speaking during those last few
11 rounds?

12 A. I don't remember anybody else speaking.
13 No.

14 Q. Okay. Do you remember Mr. Ray speaking?

15 A. Just his chants. When I say nobody else,
16 earlier -- earlier on in the session the one gal
17 that was claustrophobic, I can -- I can remember
18 her making noises and some kind of squealing, lying
19 down. And her husband was talking to her trying to
20 calm her down. But I think they left pretty early
21 on, like, maybe during round 1 they left.

22 Q. Did you know someone named Lou Caci?

23 A. I remember Lou. Didn't know him well.
24 Maybe talked to him a couple times but didn't know
25 him well.

1 Q. Were you aware of what happened to Lou
2 Caci inside the sweat lodge?

3 A. No, I wasn't.

4 Q. Did you know someone named Dennis
5 Mehravar?

6 A. Yes. He was my roommate.

7 Q. Dennis was your roommate?

8 A. Yes.

9 Q. Are you aware of anything happening to
10 Dennis Mehravar inside the sweat lodge?

11 A. Wasn't aware of anything that happened to
12 him inside the sweat lodge. No. Outside, yes.

13 Q. And what are you aware of in terms of
14 outside?

15 A. Outside after the sweat lodge, after
16 people had exited, he was screaming and making a
17 lot of commotion.

18 Q. And during the sweat lodge itself, you're
19 not aware of Dennis making any noise?

20 A. Not while I was in there. Again, I might
21 have missed an entire round. I'm not aware of
22 that. I don't recall.

23 Q. Do you know where Dennis was in the sweat
24 lodge when he was there?

25 A. No.

1 Q. Are you -- are you able to recall today
2 how the ceremony ended?

3 A. Yes. The ceremony ended and the flap
4 opened, and, Yay. We're done. Let's get out of
5 here. And -- but nobody was moving. I was
6 surprised by that. I mean, as bad as I'm
7 suffering, I would think everybody would want to
8 get out of here. But nobody was moving.

9 And so -- but we were all supposed to go
10 out single file. The inner circle was the first to
11 go out. And Linda was kind of lying right in the
12 middle of the trail there for the inner circle. So
13 at that point I thought well, maybe everybody is
14 waiting for her to get out or we need to get her
15 out anyway. So at that point I got up and started
16 dragging her out.

17 Q. Were you aware of anybody else moving
18 when you got up and started dragging Linda out?

19 A. Not -- not initially. But by the time I
20 got her over into this area here, I think I saw
21 people going out backwards. Because by the time I
22 got her out, everybody else was pretty much out of
23 the sweat lodge. So they were going around behind
24 me maybe either way. But I was pretty focused on
25 dragging her.

1 Q. When the ceremony ended, do you have any
2 recall today how many people were still inside the
3 sweat lodge?

4 A. Well, when I -- after dragging Linda
5 out -- and I kind of rolled her over to her side.
6 But as I was -- as I got her out, I was looking
7 back in, and there was two -- two gentlemen still
8 lying over there.

9 So as I rolled her side -- and somebody
10 came over to help her and was telling her to
11 breathe and -- and -- so I rolled over. And I
12 looked in, and nobody was helping them get out. So
13 I started back in to go help them. And somebody
14 told me -- he says, Scott, don't go back in.

15 And it was almost kind of simultaneously
16 I just kind of collapsed. By the time I had pulled
17 Linda out, I was just, basically, totally
18 incapacitated.

19 Q. Let's talk about that a little bit. When
20 it ended you're in this area over here?

21 A. Yes.

22 Q. And Linda was still in that area?

23 A. Yes.

24 Q. Had she moved at all from when you first
25 became aware of her a few rounds earlier?

1 A. No. She still appeared to be in the same
2 position.

3 Q. And did you note whether or not she was
4 conscious?

5 A. I would say she was unconscious.

6 Q. How did you get Linda out?

7 A. It was difficult.

8 Q. And why was it difficult?

9 A. Well, she's a bigger woman. And I was
10 pretty wasted. But I thought I could do this.
11 And -- and so I started pulling on her. I wasn't
12 making much progress. And then I believe it was
13 Greg, who's actually -- I think he's a company
14 employee who was in the sweat lodge.

15 He was over here. And I'm -- I'm pretty
16 sure it was Greg. But he came over and he started
17 lifting up part of her torso. And at that point I
18 was able to reposition myself. And at that point I
19 was starting to make progress dragging her out.

20 Q. You, basically, dragged Linda out?

21 A. Yes.

22 Q. What was the surface or the -- the soil
23 or the dirt --

24 A. It was just sand -- sand. Wet sand. I
25 guess sweaty sand by then. But it was very

1 difficult dragging her. I couldn't -- I was on my
2 hands and knees. I couldn't get a really good
3 leverage point. But I finally figured out a way I
4 could do it and was starting to make progress.

5 But she was face down. And I was
6 dragging her through the sand. Her face was in the
7 sand. But she was getting scratched up, but that
8 was better off than leaving her in there. So just
9 anybody -- and Greg started helping me. Then we
10 were finally able to get her out.

11 Q. Do you know where Mr. Ray was when you
12 were trying to get Linda out of his sweat lodge?

13 A. I think he was still -- I believe he was
14 still sitting there. Because at one point in the
15 process dragging Linda out, we hit one of the
16 support posts. And at that point I heard James'
17 voice said, Scott, stop. And I knew why he wanted
18 me to stop is because we were knocking out the
19 support post.

20 So I repositioned the support post and
21 then repositioned myself for a different angle.
22 And then at that point Greg and I continued to --
23 to pull her out.

24 Q. Did Mr. Ray ever come over and help?

25 A. No.

1 Q. How long did it take you to get Linda
2 out?
3 A. It was probably not more than a couple of
4 minutes.

5 Q. Where did you go when -- well, first of
6 all, what did you do with Linda when you got to the
7 entrance?

8 A. I move her clear of the doorway and
9 rolled her over here. And at that point somebody
10 came over and hosed both of us off. And then
11 somebody felt she wasn't breathing, so they were
12 encouraging her to breathe and -- and -- but that's
13 when I -- at that point I looked back in the -- the
14 lodge and saw the other two gentlemen.

15 But then when they told me not to go back
16 in, and simultaneously I just kind of rolled
17 backwards and collapsed. And I think I was going
18 into shock at that point.

19 Q. And let's talk about what you saw. So
20 from this area you saw back, and you saw two people
21 here?

22 A. Yes.

23 Q. You've used the term "two gentlemen."
24 Are you sure it was two gentlemen?

25 A. Quite sure. Yes.

1 Q. And why are you quite sure?

2 A. They're just big -- bigger -- bigger
3 people and appeared to be two gentlemen.

4 Q. Do you know --

5 A. It was poorly lit, but it -- to me it
6 looked like two gentlemen.

7 Q. Do you know how they got out?

8 A. No. After -- I lost consciousness a
9 couple of times. And -- and I remember later on
10 looking back in there again when I woke back up
11 again. At that point the back flap was raised up,
12 and at that point somebody was helping them.

13 Q. What back flap?

14 A. Well, not the back flap. But they
15 actually lifted up the back part of the -- the
16 lodge.

17 Q. Okay. Let's talk about you again. You
18 said you went out and you collapsed. Where did you
19 end up?

20 A. Just -- just to the side of the doorway.

21 Q. And tell the jury what happened to you.

22 A. Well, I kind of started going into
23 convulsions. I thought I was going into shock, so
24 I -- I started raising one leg at a time was all I
25 could do just trying to get blood back into my

1 core.

2 Q. How did you know to do that?

3 A. Just military training.

4 So I -- I did that a couple times and --
5 but I just -- I blacked out or lost consciousness
6 anyway. And I remember shaking and then just kind
7 of went out. And then I woke up maybe once or
8 twice and then back out again.

9 Q. Do you know how long you were passing out
10 and waking back up?

11 A. No. It was -- I think we were in the
12 sweat lodge about two hours. It was -- it was
13 daylight when we came out. I remember Jennifer
14 came over and hosed me off a couple times. And I
15 was -- obviously I was moving. I was breathing, I
16 think, but I was convulsing. And then I went out
17 again.

18 By the time I woke up again, I was -- I
19 heard a helicopter coming. And I thought whoa.
20 Every time I hear a helicopter, I just
21 instinctively look up anyway. But that woke me up.
22 And I looked up and said, oh. I used to fly those.
23 Medevac. And so that kind of brought me around a
24 little bit.

25 At that point I was really, really sick.

1 It's like the worst hangover I ever had in college
2 just -- just want to go back to sleep and sleep it
3 off. But I couldn't -- couldn't move, still just
4 laying there in the mud.

5 Q. Were you still in that same spot outside
6 the sweat lodge?

7 A. Yes. By then it was almost dark, so it
8 might have been a couple hours.

9 Q. Who are you able to recall -- as you
10 testify here today, who are you able to recall ever
11 tending to you or assisting you or trying to help
12 you?

13 A. The only one I remember is -- I mentioned
14 Jennifer came over with a hose and hosed me off
15 once or twice.

16 Q. And that spot where you were when you
17 first collapsed when the ceremony was over is
18 the --

19 A. Yes. Right by the door.

20 Q. -- same spot you stayed in this whole
21 time?

22 A. Yes.

23 Q. Still in the mud?

24 A. Yes.

25 Q. You talked about being hot -- when the

1 ceremony was over, were you hot?

2 **A. Yes. Extremely hot.**

3 **Q. At some point did that change?**

4 **A. Yes. When I finally kind of came around**
5 **a little bit when the helicopter woke me up, at**
6 **that point I was -- the sun was almost down. And I**
7 **was getting -- I was -- I was extremely cold at**
8 **that point.**

9 **So I -- I couldn't walk, but I was able**
10 **to crawl over to the big fire pit over this way**
11 **where they had been heating the stones. I -- I**
12 **crawled over there and laid down beside that pit to**
13 **warm up a little bit.**

14 **Q. I'm going to put on the overhead**
15 **Exhibit 145. Just ask if you just referred to that**
16 **fire pit right there?**

17 **A. That would be it. Yes.**

18 **Q. You said a couple times you couldn't**
19 **walk. Why couldn't you walk?**

20 **A. I was just pretty much totally**
21 **incapacitated.**

22 **Q. And how cold were you when you became --**
23 **when you woke up, the helicopter woke you up, how**
24 **cold were you?**

25 **A. Well, all I had on was a pair of shorts.**

1 **I'd been laying in the mud there and hosed down**
2 **with cold water several times and probably even**
3 **after -- at one point I didn't need to be hosed**
4 **down anymore. I mean, I was really cold and**
5 **shivering.**

6 **Q. When you crawled over to the fire, were**
7 **you able to warm up a little bit?**

8 **A. Yes.**

9 **Q. Did anybody tend to you then?**

10 **A. No. But I heard -- I heard them yell for**
11 **somebody to go get blankets. Shortly after that**
12 **point somebody, I think, brought over and put a**
13 **towel on me. That helped a little bit.**

14 **And then later on after that there's**
15 **another gal laying near the fire. And they -- she**
16 **had a great big blanket thrown on top of her, and**
17 **she wasn't using all of it. So I kind of went over**
18 **and crawled underneath a corner of it a little bit**
19 **to get a little warm off that and shelter.**

20 **Q. What were you aware of going around you**
21 **when you first had the helicopter wake you up?**

22 **A. Well, during the process of crawling over**
23 **to the fire pit to warm up, I looked around. At**
24 **that point I think it's kind like six ambulances.**
25 **And I don't remember if it was one or two**

1 **helicopters. But there was at least one helicopter**
2 **there and about six ambulances.**

3 **I thought whoa. There's a lot of stuff**
4 **going on here. But, again, it was just -- I was**
5 **kind of thinking to myself and surviving and -- and**
6 **getting warmed up.**

7 **So there's a lot activity I missed. I --**
8 **I do remember Dennis screaming. I remember a lot**
9 **of people saying -- telling people to breathe. And**
10 **that was just periods when I was kind of in and out**
11 **of consciousness.**

12 **Q. Do you know at what point it was that**
13 **were you aware of Dennis screaming?**

14 **A. It was pretty early on after I'd gone**
15 **out. And it might have been during that time**
16 **period when I was kind of going in and out of**
17 **shock, whatever that means.**

18 **Q. Did paramedics ever come and look at you?**

19 **A. No.**

20 **Q. And how about Mr. Ray?**

21 **A. No.**

22 **Q. Did you ever try to get the paramedics'**
23 **attention?**

24 **A. No.**

25 **Q. How long was it that you then laid over**

1 **by the fire trying to get warm?**

2 **A. I would estimate I was probably there at**
3 **least half an hour or so, 45 minutes. Somebody**
4 **came over once and said, Scott, can you stand up**
5 **and walk? And -- and they tried to get me up, and**
6 **I couldn't, so I laid back down. I think that's**
7 **when they put a towel over me.**

8 **Q. Do you know who that was that came over**
9 **to you then?**

10 **A. No.**

11 **Q. Do you know if it was an employee of**
12 **Mr. Ray?**

13 **A. I would assume it was an employee of**
14 **Mr. Ray. Yes. One of the Dream Team members most**
15 **likely.**

16 **Q. When -- during the half hour that you**
17 **were over by the fire, were you aware of the**
18 **emergency responders around you?**

19 **A. Yes.**

20 **Q. And tell the jury what you were aware of.**

21 **A. Well, there's a lot of -- a lot of**
22 **commotion, a lot of red lights, because by then it**
23 **was almost dark. And people just attending --**
24 **there was people on the ground. Some of this I --**
25 **I saw as I was kind of going in and out of**

1 consciousness. So there's a lot of -- a lot of
2 activity. And it just sounded like a lot of sick
3 people needing attention.

4 Q. Do you know who around you was getting
5 attention?

6 A. No.

7 Q. Did it surprise you that the paramedics
8 never came over to check on you?

9 A. I knew -- I knew the staff and I knew
10 there was something bad happening and -- and I knew
11 the staff and -- and the people that were there
12 obviously were overtasked.

13 The fact that I was able to move around
14 and stuff indicated I don't think I needed --
15 didn't need help apparently. So -- there was a lot
16 of activity. Obviously there was people that a lot
17 worse off than I was.

18 Q. What do you remember happening next?

19 A. Well, they tried to get me on my feet
20 once, and I couldn't stand up. And so they left me
21 for a while longer. And a little bit later on
22 someone came down with a -- a golf cart. And at
23 that point they were able to get me on my feet and
24 I was able to walk over to the golf cart. And --
25 and they drove me up to the shower room and dropped

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1 me off.

2 Q. Were the emergency responders still on
3 scene when you got to the golf cart?

4 A. Yes.

5 Q. Were you aware of what was happening with
6 yourself?

7 A. Probably not totally. I just knew that I
8 was still very uncomfortable, very sick, nauseous.

9 Q. What happened once you got into the golf
10 cart and got driven to your room?

11 A. Actually, they drove me up to the
12 shower -- shower house. They dropped me off. I
13 went in, took a long, hot shower and got cleaned
14 up. I didn't have any other clothes to put on, and
15 all I had -- I think they left me with a towel. So
16 I ended up walking in the dark down to my tent.

17 By the time I got down there, I was
18 freezing cold again. So I -- I crawled into bed to
19 warm up and then fell asleep.

20 Q. Who drove you to the shower?

21 A. I don't recall.

22 Q. And were you then left alone at the
23 shower?

24 A. Yes.

25 Q. And you were left alone to find your

1 tent?

2 A. Yes.

3 Q. What was your condition then?

4 A. Well, after a long, hot shower I was -- I
5 was coming around, but I -- I still felt nauseous
6 and somewhat incoherent. And then, again, by the
7 time I got down to the tent, I was freezing cold
8 again because by then it was dark and the
9 temperature drops really fast out there.

10 Q. How far was your tent from the shower?

11 A. Maybe a hundred yards.

12 Q. And you told the jury you were sharing
13 that tent with Dennis Mehravar?

14 A. Yes.

15 Q. Was Dennis there when you got there?

16 A. No.

17 Q. Did he later join you?

18 A. Yes.

19 Q. Do you know where he was before he joined
20 you?

21 A. Just from his recount, this was maybe
22 1:00 o'clock in the morning when he showed up.

23 Q. Did you -- you said you were cold again,
24 you got into your bed. And then what happened?

25 A. Well, I fell asleep. When they dropped

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1 me off in the shower room, they said, clean up and
2 then come up to the dining hall. We're going to
3 have -- assemble a group back in the dining hall.

4 And so I showered, went down to my tent,
5 jumped into bed to warm up and fell asleep. A
6 sheriff's deputy came by and just stuck his head in
7 the tent and said, how many are in here? And I
8 said, just me. And he left.

9 And I thought at that point, Oh. I'm
10 supposed to be up at the dining hall. So I got up
11 and got dressed and walked up to the dining hall to
12 join the -- the remainder of the group that was
13 there.

14 Q. Do you know what time that was?

15 A. No.

16 Q. And how were you feeling then?

17 A. Terrible.

18 Q. And describe what you were feeling for
19 the jury.

20 A. Still -- still nauseous, felt extremely
21 weak, just mental clarity was not there, and really
22 tired. Felt like I maybe just ran a hundred miles.

23 Q. What did you do at the dining hall?

24 A. Well, they had food for us and -- and
25 liquids. And the people that were healthy enough

1 were there. And I didn't -- I think I had a piece
2 of toast. And then I just did not feel like
3 eating. I knew I needed to drink, so I'm sure I
4 drank juices as much as I could.

5 The sheriff had -- the detectives were
6 there by then, and they were taking statements.

7 Q. Did they take a statement from you then?

8 A. No.

9 Q. How long were you at the dining hall?

10 A. Probably sat there two hours.

11 Q. Then did you go back to your room?

12 A. Yes.

13 Q. Do you know what time?

14 A. I think it was probably about

15 11:00 o'clock by then.

16 Q. And then back at your tent what did you
17 do?

18 A. Crawled into bed. But at that point I
19 didn't go to sleep. By that point we'd learned
20 about two people had deceased. And so I just had
21 all that running through my head wondering who they
22 were and what happened.

23 And we were still missing I don't
24 remember how many people in the dining hall. But
25 there was a lot of them that were not there that we

1 didn't know what happened to them or where they
2 were.

3 The sheriff representative came in said
4 that 2 are deceased and -- and something like 12 or
5 something or 17 were dispersed to local medical
6 facilities and they didn't know the condition of
7 them.

8 Q. Did you learn at that time who the two
9 deceased were?

10 A. No.

11 Q. When you got back to your tent, was
12 Dennis Mehravar there?

13 A. No.

14 Q. And you said he came in about 1:00 a.m.?

15 A. I believe it was about then. Yes.

16 Q. How did you become aware that Dennis was
17 coming into the tent?

18 A. Well, he just came in. And I was -- I
19 wanted to sleep. I was extremely tired. And --
20 and he wanted to chatter on about what had happened
21 to him. He explained to me his -- his event that
22 night.

23 Q. How did Dennis seem to you at that time?

24 A. Very -- very talkative, very -- very
25 anxious. He was wanting to get out of there as

1 quickly as possible. He came down to pack. He was
2 starting to pack his stuff. And I said, what are
3 you going to do? And he said, I'm going -- I'm
4 going to get a ride into town. I'm going to get a
5 hotel. I'm getting out of here.

6 And I thought well, it's 1:00 o'clock in
7 the morning. How are you going to get a taxi out
8 of Angel Valley? He said, I'll get it.

9 So anyway, he packed up all of his stuff.
10 And meanwhile while he was packing, he was telling
11 me how he had a death experience. He died --

12 MR. KELLY: Your Honor --

13 THE WITNESS: -- and saw the light at the end
14 of the tunnel or whatever it was.

15 MR. KELLY: I'm going to object to the
16 hearsay.

17 THE COURT: Sustained.

18 Q. BY MS. POLK: Was Dennis making sense to
19 you?

20 A. I would say yes. He was extremely
21 talkative and very anxious.

22 Q. And did he --

23 A. The fact that he wanted to get out of
24 Angel Valley at 1:00 o'clock in the morning didn't
25 make sense to me. But he was determined to get --

1 get gone.

2 Q. Did he leave the tent?

3 A. He did.

4 Q. Do you know where he went?

5 A. I assumed he went up to the office to
6 call a taxi. That's what he said he was going to
7 do. About an hour later he came back and said
8 there was no taxi available.

9 Q. Did he then go to bed?

10 A. After I told him I told you so, he did.

11 Q. During the sweat lodge ceremony that you
12 have just described, did -- at any time that you
13 are aware of, did Mr. Ray stop the ceremony and
14 check on any of the participants?

15 A. Not that I'm aware of.

16 Q. Did Mr. Ray ever check on you?

17 A. No.

18 Q. The next morning how did you feel?

19 A. Still felt real shaky, speech was
20 difficult, thought process was slow, felt extremely
21 tired.

22 Q. How did you feel about your experience in
23 the sweat lodge?

24 A. Well, I didn't think it was a very
25 positive experience. You know, I felt very bad

1 about the people that died, and I was concerned
2 about the people we didn't have any knowledge of
3 and where they were. I felt -- I guess I felt I
4 was lucky to be there and moving around.

5 Q. Why did you --

6 A. Grateful for that.

7 Q. Why did you feel lucky and grateful?

8 A. Well, because I --

9 MR. KELLY: Your Honor, objection. Relevance.

10 THE COURT: Sustained.

11 Q. BY MS. POLK: Did you have lingering
12 problems after your experience in the sweat lodge?

13 A. For about two weeks afterwards I still
14 had kind of speech problems and -- and it seemed
15 like I got -- my hearing was affected, thought
16 process was still -- seemed slow.

17 Q. Did the description that Mr. Ray had
18 given you before you entered the sweat lodge
19 adequately describe for you what you actually
20 experienced?

21 A. Yes.

22 Q. And in what way?

23 A. The extremely uncomfortable, feel like
24 your skin is going to fall off, it was going to be
25 really hot. It was all very true.

1 Q. And why did you believe, then, it was
2 okay for you to push through all those symptoms
3 that you experienced?

4 A. Well, in previous James Ray experiences
5 and conferences, it taught me -- taught us some
6 amazing things. Taught me how to walk on fire;
7 hot, red coals. It was the most amazing thing to
8 do that. In fact, I thought maybe we were
9 hypnotized. And when it was all done and everybody
10 was kind of regrouping and celebrating, I couldn't
11 believe that I did that.

12 So I just actually snuck out of the group
13 and I went back and did it again by myself. And
14 it's just amazing. But as a result of that, I have
15 virtually no fear of anything in life anymore.

16 So, again, I -- if he can teach me to do
17 that, going through a sweat lodge experience is
18 going to be a cake walk. So I really had no fear
19 of that.

20 Q. And you trusted Mr. Ray to lead you
21 through it safely?

22 A. Yes.

23 Q. In terms of what happened both during the
24 sweat lodge ceremony and after, were you able to
25 observe Mr. Ray and his staff deal with what was

1 going on?

2 A. I remember James. He was standing
3 outside the sweat lodge. He had a red towel on his
4 shoulders. And I remember one time he -- he told
5 Dennis to be quiet and quit his yelling. And James
6 was -- it would appear that he was directing the
7 Dream -- Dream Team to do -- do things.

8 But, again, I was kind of in and out of
9 consciousness. And so I missed probably quite a
10 bit of what was going on.

11 Q. Before you entered that sweat lodge, did
12 Mr. Ray brief you on an emergency plan?

13 A. None other than if you felt like you
14 couldn't cope with it, the time to exit would be
15 when they opened the flap.

16 Q. Which you did?

17 A. Yes.

18 Q. And then you went back in?

19 A. Yes.

20 Q. And why did you go back in?

21 A. Because I felt that I shouldn't have been
22 out in the first place.

23 Q. Why did you feel that way?

24 A. Because that wasn't part of the game
25 plan. My plan was to stay in there for the entire

1 ceremony.

2 Q. What did you think you would accomplish
3 by staying in for the entire ceremony?

4 MR. KELLY: Your Honor, this has been asked
5 and answered.

6 THE COURT: Overruled.

7 You may answer that.

8 THE WITNESS: Well, again, the intentions were
9 to commit to your goals and commit with your
10 unconscious mind, and I was there to do that.

11 Q. BY MS. POLK: Did you believe that
12 completing the ceremony had a relationship to the
13 intentions in your pouches?

14 A. Yes.

15 Q. And how so?

16 A. Well, that was -- that was part of the
17 process. And another part of the process for me is
18 that I tend not to be a quitter. And if somebody
19 else can could it, I should be able to do it.

20 Q. And you said that was part of the
21 process. Who's process?

22 A. Part of the ceremony that James had laid
23 out.

24 Q. Okay. You testified earlier about
25 your -- your body temperature and your core

1 temperature, the heat you were feeling?
 2 **A. Yes.**
 3 **Q.** Do you recall today whether or not that
 4 concerned you when you were inside the sweat lodge?
 5 **A. I would say that was a major indication**
 6 **to me that I was extremely overheated.**
 7 **Q.** Given your medevac experience, did you
 8 understand ultimately where that elevated body
 9 temperature leads to?
 10 **A. Well, I suffered from heat exhaustion**
 11 **previously, so I knew what that felt like. And I**
 12 **didn't want to go through that again.**
 13 **Q.** And when you made the decision to go back
 14 in the sweat lodge, did you think about what you
 15 were doing to your body in terms of the heat?
 16 **A. Well, I -- I think I felt that since I**
 17 **got cooled down, hosed off, and got some fresh air**
 18 **that I could complete the process.**
 19 **Q.** And I don't mean to embarrass you. But
 20 have you ever been drunk before?
 21 **A. Well, who hasn't been drunk before?**
 22 **Yes. I've been drunk before.**
 23 **Q.** Are you able to compare the decision you
 24 made to go back in to any decisions that a person
 25 who's intoxicated makes?

1 MR. KELLY: Your Honor, objection. Form of
 2 the question, relevance.
 3 THE COURT: Mr. Barratt, if you're able to
 4 answer that, you may.
 5 MR. KELLY: Your Honor, again, form of the
 6 question, whether he can compare to what someone
 7 else is doing.
 8 THE COURT: If it's made personal -- okay. As
 9 to the form, I sustain the objection.
 10 **Q.** BY MS. POLK: No. My question
 11 specifically for you, Mr. Barratt, are you able to
 12 compare the decision you made to go back in to
 13 decisions made when intoxicated?
 14 **A. I would say yes.**
 15 **Q.** And how so?
 16 **A. I know I've made poor decisions when I've**
 17 **been -- been intoxicated. And had I been totally**
 18 **coherent I probably would not have gone back in**
 19 **knowing -- knowing what it was doing to me.**
 20 **Q.** Gone back in the sweat lodge?
 21 **A. Yes.**
 22 **Q.** Thank you, sir.
 23 Thank you, Your Honor.
 24 THE COURT: Thank you, Ms. Polk.
 25 Mr. Kelly.

1 MR. KELLY: Thank you.
 2 CROSS-EXAMINATION
 3 BY MR. KELLY:
 4 **Q.** Mr. Barratt, my name is Tom Kelly. I'm
 5 one of the attorneys that represents James Ray.
 6 You and I have never had a chance to
 7 speak; correct?
 8 **A. Correct.**
 9 **Q.** And you just told us you made some poor
 10 decisions when you were intoxicated; correct?
 11 **A. Yes, sir.**
 12 **Q.** And going back in that sweat lodge was a
 13 poor decision; correct?
 14 **A. In hindsight I would say so. Yes.**
 15 **Q.** And you've made poor decisions maybe when
 16 you were in love; correct?
 17 **A. Yes.**
 18 **Q.** Poor decisions on behalf of your business
 19 and in making decisions and attempt to make money;
 20 correct?
 21 **A. I'd like to call those "learning**
 22 **experiences," actually.**
 23 **Q.** But my point is simply that as a human
 24 being someone our age, there are numerous instances
 25 when we make poor decisions; correct?

1 **A. Yes.**
 2 **Q.** And based on your life experience, your
 3 training as a medevac for the United States Army,
 4 you understand there's a difference between
 5 intoxication due to alcohol, that type of
 6 impairment, and the decision-making process back on
 7 October 8th of 2009; correct?
 8 **A. Well, they're -- they're different types**
 9 **of impairment. I mean, I've experienced hypoxia.**
 10 **And I know the effects of that and -- I -- I don't**
 11 **know. I wouldn't say that they're comparable. But**
 12 **they -- they all lead to poor decisions or capacity**
 13 **or you're -- you're incapable of making good**
 14 **decisions.**
 15 **Q.** And that's my point, sir, is that there
 16 are just a plethora of situations in life that may
 17 cause us to make a poor decision; correct?
 18 **A. Absolutely.**
 19 **Q.** Let me go back to the beginning. You're
 20 from Spokane, Washington?
 21 **A. Yes.**
 22 **Q.** And you've lived there for 30 some-odd
 23 years?
 24 **A. Yes.**
 25 **Q.** And you told the jury you're from a rural

1 area. And I was going to ask you where -- where is
2 that?

3 **A. I was born and raised on a cattle ranch**
4 **in Eastern Oregon.**

5 **Q.** And you told -- in your interview you
6 said you're a full-on cowboy, if I recall. Is that
7 due to the fact you've been raised on a ranch?

8 **A. Yes.**

9 **Q.** And in addition to that, you were a
10 United States Army helicopter pilot; correct?

11 **A. Yes.**

12 **Q.** And now you own a construction business
13 in Spokane?

14 **A. General contractor. Yes.**

15 **Q.** You understand from your life experience
16 that you've made choices to assume high-risk
17 activities?

18 **A. Yes.**

19 **Q.** And being a cowboy, high-risk activity;
20 correct?

21 **A. Yes.**

22 **Q.** Helicopter pilot, high-risk activity;
23 correct?

24 **A. Used up all my luck there.**

25 **Q.** And I saw one time a -- statistical

1 information about high-risk civilian jobs. And I
2 don't know if you know this or not, but do you
3 realize that cowboy was No. 2 on that list?

4 **A. No.**

5 **Q.** Ironworker is No. 1, and trial attorneys
6 are No. 3.

7 **A. Really? Gunshot wounds?**

8 **Q.** If you would have been here earlier, yes.
9 It's a distinct possibility with some of the
10 witnesses.

11 My -- my point is this: Seriously, a man
12 of your experience, your accomplishments, your
13 abilities, and your intellect -- you understand
14 that when you engage in these professions and
15 activities, you're exercising freedom of choice;
16 correct?

17 **A. Yes, sir.**

18 **Q.** You understand that when you -- back when
19 you were a young man and decided to break a colt,
20 ride a bronc, chase cattle over rough country, you
21 were making a conscious decision to assume the risk
22 associated with that activity; correct?

23 **A. Correct.**

24 **Q.** As a helicopter pilot, like you said,
25 you've probably used up all your chances. But,

1 again, you had to get into that helicopter each and
2 every time exercising freedom of choice to make a
3 decision that you were going to accomplish the
4 mission; correct?

5 **A. Yes, sir.**

6 **Q.** Now, when you in your construction
7 company decided that you were going to sign up for
8 some JRI activities, again, that was your free
9 choice?

10 **A. Correct.**

11 **Q.** And each time you went to these
12 activities, it was with the purpose in mind to
13 improve your personal and professional life?

14 **A. Correct.**

15 **Q.** And the great thing about JRI activities
16 was that they did both of those things. In other
17 words, they were not only simply focused on making
18 more money in the business but, more importantly,
19 becoming a better person.

20 **A. Correct.**

21 **Q.** And, I believe, just from your direct
22 examination, in many respects through many of these
23 seminars you went to, that actually happened;
24 right?

25 **A. I'm very grateful for what I learned from**

1 **James.**

2 **Q.** And when you went to these seminars,
3 correct me if I'm wrong, but many of the people
4 that you enjoyed meeting at these seminars shared
5 the same type of -- of -- I'm trying to think of
6 the word -- of independence, competitiveness,
7 accomplishment that you did; correct?

8 **A. Yes.**

9 **Q.** And you told us on direct that -- about
10 the book thing with the competitor who you had the
11 mechanical disadvantage?

12 **A. Yes.**

13 **Q.** Do you recall if his name might have been
14 Mike Olesen?

15 **A. We had name tags, and we just had the**
16 **first name on it. But yes. His name was Mike.**

17 **Q.** And it's kind of like lifting weights.

18 Seems like those short, stout, squatty guys can
19 lift more because they don't have as far to go --

20 **A. Right.**

21 **Q.** -- as people with longer arms; correct?

22 **A. Always been my story.**

23 **Q.** And it's good to have an excuse; correct?

24 **A. Exactly.**

25 **Q.** But here's my point, is when you talked

1 about competitiveness, you understood that that was
2 a game; correct?

3 **A. Yes.**

4 **Q.** But when you competed to become a pilot
5 for the United States military, that was not a
6 game; right?

7 **A. Correct.**

8 **Q.** And that is a highly competitive pursuit.
9 Fair statement?

10 **A. Well, I looked at it more at a**
11 **professional level. The more professional you**
12 **were, the longer you lived.**

13 **Q.** Well, okay. You know. That was a poor
14 question.

15 What I meant was, just to become a
16 military pilot, an aviator, was highly competitive;
17 correct. Many people tried --

18 **A. Yes.**

19 **Q.** -- most didn't make it?

20 **A. Yes. There's a very small percentage**
21 **that make it.**

22 **Q.** And -- and so you knew what competition
23 was all about; correct?

24 **A. Yes.**

25 **Q.** And when you were in the Samurai Game,

1 you knew that it was exactly that, a game?

2 **A. Correct.**

3 **Q.** You knew, as an example, that James Ray
4 was not God; correct?

5 **A. Yes.**

6 **Q.** Did you see people riding around in golf
7 carts calling themselves "angels of death"?

8 **A. No.**

9 **Q.** Okay. As a group in your little group,
10 you elected a person who was entitled the "domeo"?

11 **A. Correct.**

12 **Q.** And Bill was yours?

13 **A. Yes.**

14 **Q.** The big guy, bigger than you?

15 **A. Right.**

16 **Q.** And my point, Mr. Barratt, is that you
17 knew throughout this exercise that it was a game;
18 correct?

19 **A. Yes.**

20 **Q.** And given your size, your experience,
21 your independence, when you're laying underneath
22 that blanket and -- and you said you were having
23 difficulty breathing -- what you're trying to do is
24 play full out to receive the maximum benefit from
25 the game; correct?

1 **A. Correct.**

2 **Q.** If you wanted to you probably could have
3 gotten up and kicked James Ray's butt -- I mean --
4 correct? If you made that decision --

5 **A. Well, I don't know why I would do that.**

6 **But --**

7 **Q.** But you get my point --

8 **A. Yes.**

9 **Q.** -- because nobody is going to tell Scott
10 Barratt to lay on the ground if he doesn't want to;
11 correct?

12 **A. Yes.**

13 **Q.** So this was --

14 **A. I was free to get up any time I wanted**
15 **to. But the consequences would have been one of my**
16 **team members would have been killed off.**

17 **Q.** And were you aware that two sisters, the
18 Marzvaan sisters, thought this game is ridiculous,
19 and they left? Did you know that?

20 **A. No.**

21 **Q.** You told us about Elsa when she said, I'm
22 not going to do the sweat lodge, and she left?

23 **A. Yes.**

24 **Q.** And so my point is simply that you're
25 exercising free choice when you're laying under

1 that blanket. It's not only that you could -- you
2 could have gotten up but also you decided to stay;
3 correct?

4 **A. Well, it was my free choice. But it's**
5 **also -- yeah. The pressure, the peer pressure,**
6 **kind of keeps you there. Plus my own -- my own**
7 **desires to play the game correctly.**

8 **Q.** Correct. And you told us towards the end
9 of the direct examination that in the sweat lodge
10 they were your pouches with your intentions;
11 correct?

12 **A. Correct.**

13 **Q.** They were not James Ray's pouches;
14 correct?

15 **A. No.**

16 **Q.** And they were not James's intentions;
17 correct?

18 **A. No.**

19 **Q.** You, again, were exercising free choice
20 in determining what each of those pouches stood
21 for; correct?

22 **A. Correct.**

23 **Q.** And how you were going to attempt to
24 accomplish the purpose for your personal decisions
25 as represented by pouches; correct?

1 **A. Correct.**

2 **Q.** When -- when you were there in 2009, did
3 you have an opportunity to meet Nell Wagoner? Do
4 you remember?

5 **A. I'm sure I had the opportunity. But --**

6 **Q.** Let me rephrase my question. Do you
7 recall meeting a lady by the name of Nell Wagoner?

8 **A. No.**

9 **Q.** Do you recall meeting a lady by the name
10 of Laura Tucker?

11 **A. No.**

12 **Q.** Jeanne Armstrong?

13 **A. It's been almost a year and a half ago.**
14 **I don't -- you know -- most all that stuff -- I've**
15 **moved on in life. I've put behind me.**

16 **Q.** What I'm getting at is -- we talked about
17 free choice.

18 **A. Yes.**

19 **Q.** Were there not other people present at
20 this seminar who, based on your observations, were
21 capable of exercising free choice?

22 **A. Yes.**

23 **Q.** Now, I've listed some names. And I don't
24 expect you to remember these folks a year and a
25 half. But, undoubtedly, just like Elsa, people

1 were free to -- to get up and leave if they chose
2 to do that. Correct?

3 **A. Yes.**

4 **Q.** You told us about Dennis afterwards and
5 how despite your better advice that you're not
6 going to get a taxi in the middle of the night, he
7 exercised free choice to go give it a shot;
8 correct?

9 **A. He did. Yes.**

10 **MR. KELLY:** Judge, I need to pull some
11 exhibits. If this is a good time?

12 **THE COURT:** We can do that. We have to stop
13 by 5:00 in any event.

14 So we'll go ahead and take the evening
15 recess, ladies and gentlemen. Please remember the
16 admonition. Please be assembled by 9:30 -- I'm
17 sorry. 9:15. Usual time, 9:15, tomorrow morning.

18 And, Mr. Barratt, I didn't go over the
19 rule of exclusion of witnesses with you briefly.
20 And what it requires is not communicating with any
21 other witness about your testimony, about the case,
22 in any way until the trial is over.

23 I'm also asking that people not
24 communicate with third parties if there would be
25 some risk that it might get communicated on.

1 Again, I'm telling people I don't know the circle
2 of friends who you might know. But just to avoid
3 that also if there's any risk of that. And then
4 also avoid any kind of media exposure as well.

5 You are excused at this time along with
6 the jury.

7 I'll ask the parties to remain a moment.
8 Thank you.

9 (Proceedings continued outside presence
10 of jury.)

11 **THE COURT:** Please be seated.

12 I'll note the jury and the witness have
13 left the courtroom. I see that there -- there's
14 some filings that are coming in. And I just want
15 to see if there's something that the parties feel
16 that needs to be addressed before court tomorrow.

17 **Ms. Polk?**

18 **MS. POLK:** No, Your Honor.

19 **MR. KELLY:** No, Judge. I just need to pull
20 some exhibits.

21 **THE COURT:** Okay. I'll give you time to do
22 that. So we'll be in recess.

23 Thank you.

24 (The proceedings concluded.)
25

1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE

3
4 I, Mina G. Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript.

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action.

16 In witness whereof, I have affixed my
17 signature this 4th day of April, 2011.
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24 MINA G HUNT, AZ CR No. 50619
25 CA CSR No. 8335

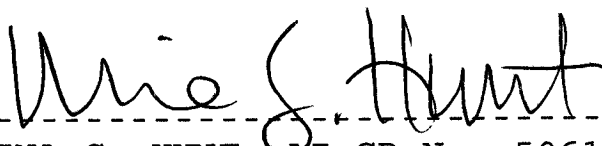
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